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C.A.No. 919-942 OF 2000

ITEM No.103 Court No.5

SECTION IIIA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal Nos.919-942/2000

COMNR. OF TAXES, GUWAHATI & ORS.Appellant (s)

VERSUS

BONGAIGAON REFINERY & PETROCHEMICALS LTD. Respondent (s)

(With office report)

Date : 07/04/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA  
HON'BLE DR. JUSTICE AR. LAKSHMANAN  
HON'BLE MR. JUSTICE S.H. KAPADIA

For Appellant (s)Mr. C.A. Sundaram, Sr. Adv.  
Ms. Krishna Sarma, Adv.  
Mr. V.K. Sidharthan, Adv.  
Mr. Atul Kumar, Adv.  
Mr. Bhaskar Bhattacharya, Adv. for  
M/s Corporate Law Group

For Respondent (s)Mr. Sushil Kumar Jain, Adv.  
Mr. Shyam Moorjani, Adv.  
Mr. Sharad Singhania, Adv.

UPON hearing counsel the Court made the following

O R D E R

The Civil Appeals are dismissed in terms of the signed order. There will be no order as to costs.

(K.K. Chawla)  
Court Master

(Jasbir Singh)  
Court Master

[Signed order is placed on the file]  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.919-942 OF 2000

COMNR. OF TAXES, GUWAHATI & ORS... APPELLANTS

VERSUS

BONGAIGAON REFINERY & PETROCHEMICALS LTD... RESPONDENT

O R D E R

These Appeals are against the Judgment of the High Court dated 8th March, 1999. The question for consideration is whether the Appellants are entitled to charge sales tax on the retention price fixed by the Oil Co-ordination Committee. The High Court has held that sales tax is leviable on the price as fixed between the buyer and the seller as per their agreement. The High Court has held that though such price may be controlled by the Government that still remains the sales price. The High Court has held that the retention price is merely a compensation or a subsidy and that such compensation /subsidies do not form part of the sales price and are therefore not liable for taxes. The view of the High Court is fully supported by a decision of this Court in the case of Neyveli Lignite Corpn. Ltd. v. Commercial Tax Officer reported in (2001) 9 SCC 648.

Strenuous efforts were made to differentiate this Judgment. It was submitted that the Judgment in Neyveli Lignite Corpn. Ltd.'s case (supra) deals with the subsidy which was paid de hors the actual sales made whereas the retention price, in the present case, is based on the actual sales made. In our view, there is no difference. The retention price remains a compensation or a subsidy as the Government is not permitting the Respondent Company to sell beyond the price fixed by it. Therefore, the principles laid down by this Court in the afore-mentioned case fully apply.

We thus see no infirmity in the Judgment of the High Court. We see no reason to interfere. The Civil Appeals are dismissed. There will be no order as to costs.

.....J.

(S.N. Variava)

.....J.

(Dr. AR. Lakshmanan)

.....J.

(S.H. Kapadia)

New Delhi;

April 07, 2005.