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C.A.No. 4769 OF 1998
ITEM NO.101(PH)

COURT No.6

SECTION XVII

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

Civil Appeal No.4769/1998@@
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M/s. Sasa Musa Sugar Works P. Ltd.

Appellant (s)

VERSUS

State of Bihar & Ors.

Respondent (s)

(with appln. for exemption from filing O.T.)

with C.A.No. 4770/1998 - with appln. for exemption from filing OT@@
AA

C.A.No. 5461/1998 - with office report@@
AA
C.A.No. 629/2001, C.A.No. 630/2001 & C.A.No. 631/2001@@
AA
I.A.Nos. 7-8 in C.A.No. 2110/1989@@
AA

Date : 14/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Appellant (s) Mr. Shanti Bhushan,Sr.Adv.
in CA 4769,4770, Mr. Y.V. Giri,Sr.Adv.
5461/98 & For rr. Mr. Praveen Kumar,Adv.
in CA 629,630,631/2001

For appellant(s) Mr. KK. Venugopal,Sr.Adv.
in C.A.No. 629/2001 Mr. Anurag Dubey,Adv.
Ms. Upasana Dubey,Adv.
Mr. M.K. Verma,Adv.
Mr. S.R. Setia,Adv.

For appellant(s) Dr. J.M. Dubey,Adv.
in C.A.Nos. 630, Mr. Anurag Dubey,Adv.
631/2001 Ms. Upasana Dubey,Adv.
Mr. Rajesh Singh,Adv.
Mr. S.R. Setia,Adv.

For Respondent(s) Mr. Krishnan Venugopal,Adv.
in CA 4769,4770 & Mr. Uday Tiwary,Adv.
5461/98 Mr. Sunil Roy,Adv.

For Marketing Board Mr. SB Sanyal,Sr.Adv.
Mr. Sunil Roy,Adv.

For F.C.I. Mr. Y.P. Rao,Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J.
.SP2

Mr. KK. Venugopal resumed his arguments at
10.45 a.m. and concluded at 11.45 a.m. Thereafter Mr.
Shanti Bhushan, learned senior counsel made his reply
submissions till 12.05 p.m. Then Mr. S.B. Sanyal,
learned senior counsel argued the matter till 2.30 p.m.
Hearing concluded.

I.A.No. 8 is dismissed as withdrawn.

I.A.No.7 is allowed.

C.A.Nos. 629, 630 & 631/2001 are dismissed with
no order as to costs.

C.A.Nos. 4769, 4770 & 5461/1998 are allowed with
no order as to costs.

.SP1

(Neelam Kawatra)
Court Master

(S. Krishnan)
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4769 OF 1998

M/s. Sasa Musa Sugar Works (Pvt) Ltd.

..

Appellant

-versus-

State of Bihar & Ors.

..

Respondents

(with CA No. 4770/98, CA No. 5461/98, CA No. 629/2001, CA No. 630/2001 & CA No. 631/2001 & IA Nos. 7-8 in CA No. 2110/1989)

O R D E R

This group of appeals arise out of challenge to the levy of market fee on purchase of sugarcane by the sugar factories from the sugarcane growers and also on sales of sugar by the sugar factories to the Food Corporation of India and other purchasers of sugar.

Civil Appeal Nos. 629, 630 and 631/2001 arise out of the suits filed by the sugar factories challenging the levy of market fee on purchase of sugarcane by them and also demand of fee said to be collected on the sales of sugar from the Food Corporation of India and other buyers of sugar. In suits, applications were moved for grant of interim injunction which was allowed by the trial court. Ultimately, the suit was decreed by the trial court and a permanent injunction was issued restraining the deft market committees from realising the market fee as prayed for in the suit. Aggrieved, the market committees preferred first appeals before the High Court. The High Court allowed the appeals and reversed the decree of the trial court. However, Letters Patent Appeals preferred by the respondent-sugar factories were allowed following the Constitution Bench s decision of this Court in Belsund Sugar Co. Ltd. vs. State of Bihar & Ors. reported in (1999) 9 SCC 620. It is against the said decision, the present appeals have been filed.

C.A. Nos. 4769, 4770 & 5461/1998 arise out of the writ petitions filed by the appellant-sugar factories challenging the aforesaid levy. The writ petitions were dismissed. It is against the said judgment, the present appeals have been filed. It is not disputed that all these appeals stand concluded by the judgment of this Court in Belsund Sugar Co. (supra).

Mr. K.K.Venugopal, learned senior counsel appearing for the appellants in C.A Nos. 629/2001 & Mr. Krishnan Venugopal, learned counsel appearing for the appellants in C.A. Nos. 630 & 631/2001, however, argued that the blanket injunction granted by the High Court was totally unwarranted and illegal. Their case is that despite injunction granted by the trial court, the sugar factories have collected market fee from the Food Corporation and other purchasers of sugar but failed to transmit the said amount to the market committee. Therefore, injunction granted by the High Court has to be modified and the sugar factories may be directed to pay to the market committee, the fee collected by them on the sale of sugar. Their case is that where the levy has already suffered and the amount of fee was collected by the sugar factories, the same is payable to the market committee. Learned counsel relied upon paragraphs 111, 112, 113 & 114 of the judgment of this Court in Belsund Sugar Co Ltd s (supra) and also the decisions of this Court in Mahaluxmi Rice Mills & Ors. vs. State of U.P. & Ors. reported in (1998) 6 SCC 590, M/s. Amar Nath Om Prakash & Ors. vs. State of Punjab & Ors. reported in (1985)1 SCC 345 and Mafatlal industries Ltd. & Ors. vs. Union of India & Ors. reported in (1997) 5 SCC 536. We find that the aforesaid cases have no relevance to the subject matter of the dispute. In the present case, it has been held that the levy is illegal and unauthorised. Therefore, the appeals have to be dismissed. However, dismissal of these appeals shall not stand in the way of the appellants (Market Committee) in taking such proceedings for recovery of fee if permissible in law. With the aforesaid directions, C.A. Nos. 629, 630 & 631/2001 are dismissed. There shall be no order as to costs.

C.A. Nos. 4769, 4770 & 5461/1998 stand concluded by the decision of this Court in Belsund Sugar Co. Ltd. vs. State of Bihar & Ors (supra) and, therefore, these appeals deserve to be allowed. The judgment under challenge is set aside.

The appeals are allowed. There shall be no order as to costs.

I.A. No. 8 in CA No. 2110/1989

After the matter was heard at length, Mr. S B Sanyal, learned senior counsel representing the Bihar State Agricultural Marketing Board prays for withdrawal of the application. The application is dismissed as withdrawn.
I.A. No. 7 in CA No. 2110/1989

The application is allowed and the Bank Guarantee shall be released in favour of the Food Corporation of India.

& & & & & & & & .J
(V.N.Khare)

& & & & & & & & .J

(Doraiswamy Raju)

New Delhi;
February 14, 2001