

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

Petition(s) for Special Leave to Appeal (Civil) No(s).8590/2010

(From the judgement and order dated 30/06/2009 in ITA No.225/2007  
of The HIGH COURT OF BOMBAY)

C.I.T., BOMBAY

Petitioner(s)

VERSUS

KRISHNA SAHAKARI SAKHAR KARKHANA LTD.

Respondent(s)

(With office report)

With S.L.P. (C) No.8594 of 2010  
(With office report)

S.L.P. (C) No.8595 of 2010  
(With office report)

S.L.P. (C) No.14858 of 2010  
(With office report)

S.L.P. (C) No.17684 of 2010  
(With office report)

Civil Appeal No.4443 of 2011

S.L.P. (C) No.13557 of 2010  
(With office report)

S.L.P. (C) No.12211 of 2010  
(With office report)

S.L.P. (C) No.18525 of 2010  
(With prayer for interim relief and office report)

S.L.P. (C) No.18371 of 2010  
(With prayer for interim relief and office report)

S.L.P. (C) No.27218 of 2010  
(With prayer for interim relief and office report)

S.L.P. (C) No.11563 of 2010  
(With prayer for interim relief)

S.L.P. (C) No.23046 of 2011  
(With appln(s) for c/delay in filing SLP and office report)

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- 2 -

S.L.P. (C) No.13069 of 2010  
(With prayer for interim relief and office report)

S.L.P. (C) No.20242 of 2010  
(With prayer for interim relief and office report)

S.L.P. (C) No.26865 of 2010  
(With prayer for interim relief and office report)

S.L.P. (C) No.15611 of 2010  
(With office report)

S.L.P. (C) No.25129 of 2010  
(With office report)

S.L.P. (C) No.25130 of 2010  
(With office report)

S.L.P. (C) No.29694 of 2010  
(With office report)

S.L.P. (C) No.35117 of 2010  
(With prayer for interim relief and office report)

S.L.P. (C) No.28584 of 2010  
(With prayer for interim relief and office report)

S.L.P. (C) No.32855 of 2010  
(With office report)

S.L.P. (C) No 32856 of 2010  
(With office report)

S.L.P. (C) No.17705 of 2010  
(With office report)

S.L.P. (C) No.18335 of 2010  
(With office report)

S.L.P. (C) No.3791 of 2012  
(With office report)

S.L.P. (C) No.3792 of 2012  
(With office report)

S.L.P. (C) No.3070 of 2011  
(With prayer for interim relief and office report)

S.L.P. (C) No.4878 of 2012  
(With office report)

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- 3 -

S.L.P. (C) No.7657 of 2012  
(With office report)

S.L.P. (C) No.6408 of 2011  
(With appln(s). for c/delay in fling & refiling SLP and  
office report)

S.L.P. (C) No.8758 of 2012  
(With appln(s). for c/delay in filing SLP and office report)

S.L.P. (C) No.9471 of 2012  
(With appln(s). for c/delay in filing SLP and office report)

S.L.P. (C) No.9474 of 2012  
(With appln(s). for c/delay in filing SLP and office report)

S.L.P. (C) No.10961 of 2011  
(With appln(s). for c/delay in filing SLP and office report)

S.L.P. (C) No.12035 of 2012  
(With appln(s). for c/delay in filing SLP and office report)

S.L.P. (C) No.12109 of 2012  
(With appln(s). for c/delay in filing SLP and office report)

S.L.P. (C) No.12884 of 2012  
(With office report)

S.L.P. (C) No.16279 of 2012  
(With appln(s). for c/delay in filing & refiling SLP and  
office report)

S.L.P. (C) No.19494 of 2012  
(With appln(s). for c/delay in filing SLP and office report)

S.L.P. (C) No.19926 of 2012  
(With office report)

S.L.P. (C) No.23460 of 2012  
(With appln(s). for c/delay in filing & refiling SLP and  
office report)

S.L.P. (C) No.27789 of 2012  
(With office report)

Date: 25/09/2012 These Matters were called on for hearing today.

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- 4 -

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s) Mr. R.P. Bhatt, Sr. Adv.

Mr. Arijit Prasad, Adv.  
Mr. Rahul Kaushik, Adv.  
Mr. Yatinder Chaudhary, Adv.  
Mr. Vikas Malhotra, Adv.  
Mr. Anil Gaur, Adv.  
Mr. C.V.S. Rao, Adv.  
Ms. Gargi Khanna, Adv.  
Ms. Anil Katiyar, Adv.  
for Mr. B.V. Balaram Das, Adv.

For Respondent(s) Mr. Shekhar Naphade, Sr. Adv.

Mr. Chinmoy Khaladkar, Adv.  
Mr. Vimal Chandra S. Dave, Adv.

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

Mr. Chinmoy Khaladkar, learned counsel, states that he  
appears on behalf of all the respondents. Therefore, service is  
complete in all the matters.

Heard learned counsel on both sides.

Delay condoned.

Leave granted.

These civil appeals filed by the Department are disposed  
of with no order as to costs.

[ T.I. Rajput ]  
A.R.-cum-P.S.

[ Indu Satija ]  
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6949 OF 2012  
(Arising out of S.L.P. (C) No.8590 of 2010)

Commissioner of Income Tax, Bombay

...Appellant(s)

Versus

Krishna Sahakari Sakhar Karkhana Ltd.

...Respondent(s)

W I T H

Civil Appeal No.6950/2012 @ S.L.P. (C) No.8594 of 2010,  
Civil Appeal No.6951/2012 @ S.L.P. (C) No.8595 of 2010,  
Civil Appeal No.6952/2012 @ S.L.P. (C) No.14858 of 2010,  
Civil Appeal No.6953/2012 @ S.L.P. (C) No.17684 of 2010,  
Civil Appeal No.6955/2012 @ S.L.P. (C) No.13557 of 2010,  
Civil Appeal No.6956/2012 @ S.L.P. (C) No.12211 of 2010,  
Civil Appeal No.6957/2012 @ S.L.P. (C) No.18525 of 2010,  
Civil Appeal No.6958/2012 @ S.L.P. (C) No.18371 of 2010,  
Civil Appeal No.6959/2012 @ S.L.P. (C) No.27218 of 2010,  
Civil Appeal No.6960/2012 @ S.L.P. (C) No.11563 of 2010,  
Civil Appeal No.6961/2012 @ S.L.P. (C) No.23046 of 2011,  
Civil Appeal No.6962/2012 @ S.L.P. (C) No.13069 of 2010,  
Civil Appeal No.6963/2012 @ S.L.P. (C) No.20242 of 2010,  
Civil Appeal No.6964/2012 @ S.L.P. (C) No.26865 of 2010,  
Civil Appeal No.6965/2012 @ S.L.P. (C) No.15611 of 2010,  
Civil Appeal No.6966/2012 @ S.L.P. (C) No.25129 of 2010,  
Civil Appeal No.6967/2012 @ S.L.P. (C) No.25130 of 2010,  
Civil Appeal No.6968/2012 @ S.L.P. (C) No.29694 of 2010,  
Civil Appeal No.6969/2012 @ S.L.P. (C) No.35117 of 2010,  
Civil Appeal No.6970/2012 @ S.L.P. (C) No.28584 of 2010,  
Civil Appeal No.6971/2012 @ S.L.P. (C) No.32855 of 2010,  
Civil Appeal No.6972/2012 @ S.L.P. (C) No.32856 of 2010,  
Civil Appeal No.6973/2012 @ S.L.P. (C) No.17705 of 2010,  
Civil Appeal No.6974/2012 @ S.L.P. (C) No.18335 of 2010,  
Civil Appeal No.6975/2012 @ S.L.P. (C) No.3791 of 2012,  
Civil Appeal No.6976/2012 @ S.L.P. (C) No.3792 of 2012,  
Civil Appeal No.6977/2012 @ S.L.P. (C) No.3070 of 2011,

Civil Appeal No.6978/2012 @ S.L.P. (C) No.4878 of 2012,  
Civil Appeal No.6980/2012 @ S.L.P. (C) No.7657 of 2012,  
Civil Appeal No.6981/2012 @ S.L.P. (C) No.6408 of 2011,  
Civil Appeal No.6982/2012 @ S.L.P. (C) No.8758 of 2012,

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Civil Appeal No.6983/2012 @ S.L.P. (C) No.9471 of 2012,  
Civil Appeal No.6984/2012 @ S.L.P. (C) No.9474 of 2012,  
Civil Appeal No.6985/2012 @ S.L.P. (C) No.10961 of 2011,  
Civil Appeal No.6986/2012 @ S.L.P. (C) No.12035 of 2012,  
Civil Appeal No.6987/2012 @ S.L.P. (C) No.12109 of 2012,  
Civil Appeal No.6988/2012 @ S.L.P. (C) No.12884 of 2012,  
Civil Appeal No.6989/2012 @ S.L.P. (C) No.16279 of 2012,  
Civil Appeal No.6990/2012 @ S.L.P. (C) No.19494 of 2012,  
SCivil Appeal No.6991/2012 @ S.L.P. (C) No.19926 of 2012,  
Civil Appeal No.6992/2012 @ S.L.P. (C) No.23460 of 2012,  
Civil Appeal No.6993/2012 @ S.L.P. (C) No.27789 of 2012 and  
Civil Appeal No.4443 of 2011.

#### O R D E R

Heard learned counsel on both sides.  
Delay condoned.  
Leave granted.

The assessee(s) is a Co-operative Society engaged in the business of production of sugar from sugarcane and sale thereof. Assessee(s) buys sugarcane from its Members. Every month and on Diwali, assessee(s) sells certain quantity of sugar (final product) at concessional rate to farmers/cane growers/Members. The difference between the average price of sugar sold in the market and the price of sugar sold by the assessee(s) to its Members at concessional rate is sought to be taxed by the Department under the Head 'Appropriation of Profit'.

The question, whether the above difference between the fair market price and the concessional price should or should not be added to the total income of the assessee(s) Society, needs to be re-looked by Commissioner of Income Tax (Appeals) [for short, 'CIT (A)'].

Apart from the afore-stated question, CIT (A) would take into account, whether the above-mentioned practice of selling sugar at concessional rate has become the practice or custom in the Co-operative Sugar Industry?; and whether any Resolution has been passed by the State Government supporting

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- 3 -

the practice? The CIT (A) would also consider on what basis the quantity of the final product, i.e., sugar, is being fixed for sale to farmers/cane growers/Members each year on month-to-month basis, apart from Diwali?

These are some of the questions which have not been addressed by the Authorities below in the impugned orders. The CIT (A) would be entitled to look into the Accounts and verify the basis for sale of sugar at concessional price on month-to-month basis. We, therefore, keep all questions of law and facts open.

Needless to add, the CIT (A) would give liberty to both sides to produce relevant documents.

For the above reasons, we remit the cases to CIT (A) to de-novo consider the matter.

Accordingly, these civil appeals filed by the Department are

disposed of with no order as to costs.

.....CJI.  
[S.H. KAPADIA]

.....J.  
[MADAN B. LOKUR]

New Delhi,  
September 25, 2012.  
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