

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11034 OF 2015

**The Nashik Agricultural Produce
Market Committee, Nashik,**
Having its Office at Anand Rushi Marg,
Dindori Road, Market Yard,
Panchawati, Nashik.

... Petitioner

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V/s.

- 1. Shri. N.G. Thakkar And Sons**
Godavari Service Industrial Estate,
Plot No. 20 & 21,
Near Old Tirangana Industrial Estate,
New Bombay, Agra Road, Nashik.
- 2. The Director of Marketing,**
Maharashtra State, Pune
Having its office at New Central Building
2nd Floor, Pune, District Pune.
- 3. The State of Maharashtra**
(Department of Agricultural, Marketing
Through Chief Minister for State)

... Respondents

Mr. Nikhil Pujari i/b Mr. Pramod N. Joshi, for Petitioner.

Mr. Himanshu B. Takke, for Respondent No.1.

Dr. Dhruti Kapadia, AGP for Respondent Nos. 2 & 3 – State.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 24, 2026

PRONOUNCED ON : SEPTEMBER 1, 2026

JUDGMENT:

1. The Petitioner has filed the present Writ Petition challenging the legality and correctness of the Judgment and Order dated 4 September 2014 passed by the State Government in Appeal No. 2 of 2012. By the said order, the State Government confirmed the earlier Order dated 15 October 2011 passed by the Director of Marketing, Respondent No. 2. The Director of Marketing had held that the product known in Marathi as “Hing” and in English as “Asafoetida” is not covered by the agricultural produce mentioned in the Notification dated 8 December 2005. On that basis, it was held that the Petitioner could not recover market fee on the said product.

2. The Petitioner is an “Agricultural Produce Market Committee” constituted under the Maharashtra Agricultural Produce Marketing (Development & Regulation) Act, 1963 and the Rules of 1967 framed thereunder. These are hereinafter referred to as the “Said Act” and the “Said Rules”. The Petitioner is responsible for regulating the sale and purchase of agricultural produce within the “market area” of the Petitioner Committee. Respondent No. 1 is carrying on business in “Asafoetida” within the “market area” of the Petitioner Committee. The Petitioner had recovered market fee on the sale of “Asafoetida” under Section 31 of the Said Act. The Petitioner relied upon the Notification dated 8 December 2005, which included “Masalyache Padartha” (Spices) among the specified

agricultural produce. Respondent No. 1 thereafter approached the Director of Marketing and made a representation. It was contended that “Hing”, that is, “Asafoetida”, is not mentioned in the Schedule to the Notification as an “agricultural produce”. Therefore, according to Respondent No. 1, the Petitioner had no authority to recover market fee on “Hing”.

3. The Director of Marketing, Respondent No. 2, by Order dated 15 October 2011, accepted the said contention. He held that “Hing”, that is, “Asafoetida”, was not an agricultural produce covered by the relevant Notification. On that basis, he held that the Petitioner was not entitled to recover market fee on “Hing”. According to the Petitioner, this finding was erroneous. The Petitioner challenged the Order dated 15 October 2011 by filing Appeal No. 2 of 2012 before the State Government. In the Appeal Memo, the Petitioner pointed out the material facts and circumstances to show that recovery of market fee on “Hing” or “Asafoetida” was permissible under the Said Act and the Notification dated 8 December 2005. The Petitioner placed reliance upon the material which, according to it, showed that “Hing” falls within the category of “Masalyache Padartha”, namely, spices. The Minister of State, by Order dated 4 September 2014, dismissed the Appeal filed by the Petitioner. According to the Petitioner, the Appeal was dismissed without properly considering its submissions and without giving proper and sufficient reasons. The Petitioner therefore contends that the impugned Order is liable to be set aside. It is contended that the

State Government did not properly consider the case put forward by the Petitioner and did not give adequate reasons for confirming the Order dated 15 October 2011.

4. Mr. Nikhil Pujari learned Advocate for the Petitioner submits that the information obtained by the Petitioner from the Wikipedia website regarding “Hing”, that is, “Asafoetida”, describes the product as a “Masalyache Padartha”, namely, a “Spice”. According to the Petitioner, if “Hing” is a spice, it is covered by the Notification dated 8 December 2005, which includes “Masalyache Padartha” (Spices). The Petitioner has relied upon the provisions of the Spices Board Act, 1986. It is submitted that the definition of “spices” under the said Act, read with its Schedule, includes “Asafoetida” at Serial No. 34. On the basis of this material, the Petitioner submits that “Hing” is a spice and is therefore covered as an “Agricultural Produce” under the Said Act. It is submitted that the Authorities below were required to consider this material and the submissions made by the Petitioner. According to the Petitioner, the Authorities have failed to do so and have failed to give proper and sufficient reasons for their conclusions. The Petitioner therefore submits that the Appeal has been dismissed without a proper and reasoned speaking order.

5. On the other hand, Mr. Himanshu B. Takke the learned Advocate for Respondent No. 1 has relied upon the Government Gazette dated 8 December 2005. He submits that, though the said Gazette issued under Section 4 of the Maharashtra

Agricultural Produce Market Committee Act contains several specified items, it only refers to “मसाल्याचे पदार्थ” (Masalyache Padarth). According to him, the expression “मसाल्याचे पदार्थ” does not include “Hing”. He submits that even the Schedule attached to the Said Act does not mention “Hing”. Therefore, according to Respondent No. 1, “Hing” cannot be treated as a specified agricultural produce merely because it may generally be understood as a spice. On this basis, it is submitted that the Appellate Authority was correct in holding that the Petitioner could not recover market fee on the product described as “Hing”.

6. Ms. Kapadia, learned AGP, placed on record a detailed note dealing with the legal position relating to “Hing” and spices. The note refers to the Central legal Act as well as the Maharashtra legal Act. It considers the decisions dealing with “Hing” and spices and makes a comparative examination of the legal position concerning pure Asafoetida and compounded Asafoetida, that is, “Hing”. As regards the Central Acts, reliance is first placed on the Customs Tariff Act, 1975. Chapter 9 of the First Schedule to the said Act deals with coffee, tea, mate and spices. Supplementary Note 2 to Chapter 9 gives a functional meaning to the word “spice”. It refers to a group of vegetable products, including seeds, which are rich in essential oils and aromatic principles and which, because of their characteristic taste, are used as condiments. The provision recognises such products whether they are in whole, crushed or powdered form.

The learned AGP submits that this provision is relevant because the expression “spice” is being used as a statutory expression for the purpose of tariff classification. According to the note, the nature of the ingredients, their aromatic properties, their characteristic taste and their main use as condiments are relevant. Thus, the provision does not proceed only on the basis of a fixed list of names of spices. It provides a test based upon the nature and use of the product. The learned AGP has relied upon Supplementary Note 3 to contend that the position remains the same even in case of a compounded product. The said provision provides that addition of other substances will not take a mixture outside the spice heading if the mixture continues to have the essential character of a spice. It recognises products known as masalas. Therefore, according to the learned AGP, merely because some other substance is added to a spice, the product does not cease to be a spice. The relevant question is whether the product continues to retain the essential character of the spice.

7. The relevant statutory definition relied upon by the learned AGP reads as follows:

“Spice” means a group of vegetable products (including seeds, etc.), rich in essential oils and aromatic principles, and which, because of their characteristic taste, are used as condiments. These products may be whole or in crushed or powdered form. [Customs Tariff Act (51 of 1975), Sch section II, Chap. 9, Note 2, Supplementary Note 2; Central Excise Tariff Act, 1985 (5 of 1986), Sch I, Chapter 9, Supp.

Note (2) as substituted by Central Excise Tariff (Amendment) Act (5 of 2005), section 3]

8. The next legislation relied upon by the learned AGP is the Spices Board Act, 1986. Section 2(n) of the said Act defines “spices” by referring to the Schedule to the Act. The Schedule contains a specific list of spices. At Serial No. 34, “Asafoetida” is expressly included. The Schedule covers the listed spices in different forms, including mixtures where the spice content is predominant.

9. Thus, according to the learned AGP, the Spices Board Act gives a direct answer to the question whether “Asafoetida” is a spice. Asafoetida is included at Serial No. 34 of the Schedule. It is therefore not necessary, for the purposes of that Act, to decide whether Asafoetida is a spice only by considering its use or its botanical characteristics. Its specific inclusion in the Schedule is sufficient to show that Parliament has treated “Asafoetida” as a spice under the said Act.

10. Section 2(n) of the Spices Board Act, 1986, relied upon by the learned AGP, reads as follows:

“Spices” means the spices specified in the Schedule: Provided that the Central Government may, if satisfied that it is necessary or expedient in the public interest so to do, by notification in the official Gazette, add any other spice to the Schedule or omit any spice therefrom. [Spices Board Act (10 of 1986), section 2(n)]

11. The learned AGP has thereafter referred to the Compounded Asafoetida Grading and Marking Rules, 1984. These Rules were framed under the Agricultural Produce (Grading and Marking) Act, 1937, which provides the statutory Act for grading and marking agricultural produce. The said Rules apply to compounded Asafoetida produced in India. The Rules use the expression “Compounded Asafoetida (Bandhani Hing)”. Schedule I prescribes the quality requirements for such product. It describes compounded Asafoetida as a mixture made from one or more varieties of Asafoetida, namely, Irani or Pathani hing, along with gum arabic and edible starches or cereal flour. The learned AGP therefore submits that Indian law has treated compounded “Hing” as a regulated form of Asafoetida. It has not treated it as a different commodity having no connection with Asafoetida.

12. Schedule I to the said Rules provides three grades of Compounded Asafoetida, namely, Extra Special, Special and Standard. The grades are determined on the basis of requirements such as total ash, ash insoluble in dilute hydrochloric acid, alcoholic extract and moisture. These requirements are prescribed as percentages by weight. The Schedule contains general requirements applicable to all grades. The general requirements provide that Compounded Asafoetida, or Bandhani Hing, must be prepared by blending one or more varieties of Asafoetida, whether Irani or Pathani hing or both, with gum arabic and edible starches or edible cereal flour. The

product must be free from colophony resin, galbanum resin, ammoniacum resin, other foreign resin, coal tar dyes, mineral pigments and other foreign matter. It must be free from insect or fungus attack, rodent contamination and foreign odour. The Indian standard method of testing published in IS 7807 of 1975, as amended from time to time, is prescribed for testing the product.

13. Schedule II to the Rules deals with the design of the grade designation mark. The prescribed mark contains the words “Produce of India”, an outline map of India, the word “AGMARK” and the figure of a rising sun. Rule 5 requires this mark, supplied by the Agricultural Marketing Adviser, to be affixed to every container along with the relevant grade designation. The Rules prescribe the manner in which the mark is to be placed on different types of containers. The Compounded Asafoetida Grading and Marking Rules, 1984 were published in the Gazette of India, Part II, Section 3(ii), by Notification S.O. 1156 dated 7 April 1984. Thus, the statutory recognition and regulation of compounded Asafoetida in India is not of recent origin.

14. The learned AGP has referred to the Food Safety and Standards Act, 2006 and the regulations framed thereunder. The Food Safety and Standards Act is a Central legislation. Though enforcement functions are performed by State authorities, the standards relating to food are prescribed under the Central Acts. Section 30 of the Act requires the State Government to appoint a

Commissioner of Food Safety for effective implementation of the Act and the rules and regulations made thereunder. Regulation 2.9.29 of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 separately deals with “Asafoetida (Hing or Hingra)” and with compounded Asafoetida or Bandhani Hing. The regulation identifies Asafoetida as an oleogumresin obtained from specified species of *Ferula* and prescribes requirements relating to its quality. It separately recognises compounded Asafoetida as a preparation containing Asafoetida along with permitted materials.

15. According to the learned AGP, the fact that the Regulations separately prescribe standards for pure Asafoetida and compounded Asafoetida does not mean that compounded “Hing” has ceased to be “Hing”. The separate treatment is for prescribing the quality and composition of a particular form of the product. It does not establish that the compounded product has lost its identity as Asafoetida.

16. The learned AGP has referred to the legal position in the United States regarding Asafoetida. It is submitted that United States law does not have a general statutory category of “spice” in the same manner as the Customs Tariff Act, 1975 or the Spices Board Act, 1986 in India. Asafoetida is dealt with under the federal statutes relating to substances added to food. The United States Food and Drug Administration maintains a database known as “Substances Added to Food”, earlier known as EAFUS. In that database, Asafoetida is mentioned as

“Asafetida, Gum (Ferula assafoetida L.)”. The entry refers to names commonly used for the product, including hing and heeng, and identifies its use in food as a flavouring agent or adjuvant.

17. The learned AGP submits that the regulatory basis for this entry is Title 21, Section 182.20 of the Code of Federal Regulations. The provision places asafetida among essential oils, oleoresins and natural extractives which are generally recognised as safe for their intended use within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act. The provision identifies the botanical source as Ferula assafoetida L. and related species of Ferula. It is pointed out that the Flavor and Extract Manufacturers Association has assigned Asafoetida FEMA number 2107 under its generally recognised as safe assessment programme. The learned AGP has therefore placed the Indian and United States legal positions for comparison. In India, Asafoetida is expressly included in the statutory Schedule of spices under the Spices Board Act and is separately regulated under the grading, marking and food safety laws. In the United States, there is no similar general statutory Schedule of spices. Asafoetida is instead dealt with as a flavouring substance which is generally recognised as safe. The legal methods adopted by the two countries are therefore different. However, the underlying product remains identified by its botanical identity as Asafoetida.

REASONS AND FINDINGS:

18. I have considered the Petition, the orders challenged by the Petitioner, the submissions made for the Petitioner and Respondent No. 1 and the detailed note placed on record by Ms. Kapadia, learned AGP. I have considered the provisions of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, the relevant Schedule and the Central laws relied upon by the Petitioner. The issue is limited. However, it has to be decided by reading the relevant provisions of the Said Act together with the material placed before the Court. The Petitioner says that “Hing”, that is “Asafoetida”, is a spice. Therefore, according to the Petitioner, it comes within “मसाल्याचे पदार्थ” or spices mentioned in the Notification dated 8 December 2005. Respondent No. 1 disputes this. According to Respondent No. 1, merely because Hing is commonly known as a spice, it cannot be treated as covered by the Notification. It is pointed out that the word “hing” is not separately mentioned in the Schedule. Therefore, according to Respondent No. 1, market fee cannot be recovered on a commodity which is not specified. The State Government has accepted this view in the impugned order. The question, therefore, is whether “Hing” can be brought within the entry of “मसाल्याचे पदार्थ” on a proper reading of the Said Act and the material placed before the Court.

19. For deciding this question, the scheme of the Said Act first requires consideration. Section 2(1)(a) defines “Agricultural produce” as “all produce whether processed or not of

agriculture, horticulture, animal husbandry, apiculture, pisciculture, fisheries and forest specified in the Schedule”. The words “specified in the Schedule” are important. They show that every product coming from agriculture or the other activities mentioned in the provision does not become “agricultural produce” under the Said Act. It must be specified in the Schedule. Therefore, the Schedule has to be considered while deciding whether a commodity is agricultural produce under the Said Act. Under Section 4, the State Government can declare that “the marketing of the agricultural produce specified in the notification shall be regulated under this Act”. Therefore, the produce which is sought to be regulated must be covered by the statutory provisions and the relevant notification. The Market Committee cannot levy market fee generally on every article which may be considered an agricultural or food product. Section 31 gives the Market Committee power “to levy and collect fees ... from every purchaser of agricultural produce marketed in the market area”. Thus, Section 31 cannot be read by. It does not give power to levy fee on every commodity. The commodity must first be “agricultural produce” under Section 2(1)(a). It must thereafter be marketed in the market area in the manner contemplated by the Said Act. Only then the power to levy market fee under Section 31 can arise.

20. In view of this position, the wording of the Schedule becomes important. Under the heading “Condiment, spices and others”, several commodities are mentioned. These include

“Turmeric”, “Ginger”, “Garlic”, “Coriander”, “Chillies”, “Cardamom and peppers”, “variali”, “Cummin (Jiru)”, “Rai (mustard)” and “Methi”, apart from other items. However, “Hing” or “Asafoetida” is not separately mentioned in the Schedule placed before the Court. But this fact alone cannot end the matter. The heading uses the words “Condiment, spices and others”. The Notification uses the expression “मसाल्याचे पदार्थ”. Therefore, it has to be seen whether these words cover a class of commodities generally, or whether they are restricted only to the commodities whose individual names are separately mentioned in the Schedule.

21. The Petitioner has placed material to show the nature of Asafoetida and has contended that Hing is a spice. The Petitioner has particularly relied upon the Spices Board Act, 1986. Section 2(n) of that Act provides:

““Spices” means the spices specified in the Schedule...”

22. The Schedule to that Act includes “Asafoetida” at Serial No. 34. Therefore, under the Spices Board Act, Asafoetida is clearly recognised by law as a spice. This material supports the Petitioner's submission to this extent that Hing cannot be said to be outside the legal meaning of spice. This is not only based upon common understanding. A Central Act includes “Asafoetida” in its Schedule of spices. Therefore, the submission that Hing cannot be regarded as a spice at all cannot be accepted.

23. The Petitioner has relied upon the Customs Tariff Act material. The relevant statutory definition states:

“"Spice" means a group of vegetable products (including seeds, etc.), rich in essential oils and aromatic principles, and which, because of their characteristic taste, are used as condiments. These products may be whole or in crushed or powdered form.”

24. This definition considers the nature and use of the product. It refers to essential oils, aromatic principles, characteristic taste and use as condiments. Therefore, the word “spice” is not limited only to those commodities whose exact names are separately mentioned in a statutory list.

25. The learned AGP has relied upon the provisions relating to mixtures or compounded spices. Her submission is that addition of another substance does not by make the product cease to be a spice, if the essential character of the spice continues. This submission is relevant for understanding the identity of the product. However, another question still remains. It has to be decided whether the relevant entry under the Maharashtra legislation covers such product. Thus, the question of what the product is and the question of what the Maharashtra Schedule covers have to be considered separately.

26. The Compounded Asafoetida Grading and Marking Rules, 1984 are relevant. These Rules use the expression “Compounded Asafoetida (Bandhani Hing)” and prescribe standards for the same. The Rules provide that the product is prepared by

blending varieties of Asafoetida, including Irani or Pathani hing, with gum arabic and edible starches or edible cereal flour. This shows that Indian law has recognised compounded Hing as a regulated form of Asafoetida for a long time. It is not treated as a different commodity. The Food Safety and Standards Act separately recognises “Asafoetida (Hing or Hingra)” and “compounded Asafoetida or Bandhani Hing”. This shows that Hing is a recognised product which is regulated by law. But this alone does not decide whether market fee can be recovered under the Maharashtra Agricultural Produce Marketing (Regulation) Act. That question has to be decided under the Said Act and the relevant Notification. To this extent the Petitioner's submission is accepted. The material before the Court, read with the Central enactments relied upon by the learned AGP, shows that “Hing” or “Asafoetida” is recognised in statutory law as a spice. It shows that compounded Hing continues to be recognised as a form of Asafoetida. Therefore, the view that Hing cannot be treated as a spice in law cannot be accepted. However, this finding alone does not give the Petitioner right to recover market fee. The question of levy has to be separately considered. The power under Section 31 has to be read with the definition of “agricultural produce” under Section 2(1)(a), the Schedule and the relevant notification issued under the Said Act. A Central law which recognises Asafoetida as a spice cannot by amend the Schedule of the Maharashtra legislation. There is no material before the Court to

show that the Spices Board Act or the Customs Tariff Act has added “Asafoetida” to the Schedule of the Said Act.

27. The Petitioner relies upon the expression “मसाल्याचे पदार्थ” used in the Notification dated 8 December 2005. However, merely because Hing is a spice, it cannot be said that every product which is called a spice in law or in common use becomes covered by the Maharashtra Schedule. The words used in the Notification have to be understood in the context of the Said Act. Since the Act permits recovery of market fee, the commodity on which the fee is charged must clearly come within the statutory language. At the same time, the submission of Respondent No. 1 that because “Hing” is not separately mentioned, it must be excluded, cannot be accepted. If the State Government has used a class expression such as “मसाल्याचे पदार्थ”, then a commodity which properly falls within that class cannot be excluded only because its individual name is not separately mentioned. Otherwise, the general expression would have little meaning.

28. The question, therefore, is what is the normal and proper scope of “मसाल्याचे पदार्थ” in the relevant Notification. The other entries in the Schedule are useful for this purpose. Turmeric, ginger, garlic, coriander, chillies, cardamom and peppers, cumin, mustard and methi are placed under “Condiment, spices and others”. These commodities are used as spices or condiments. The manner in which the Schedule is arranged shows that the legislature was dealing with the category of condiments and

spices and then mentioning different commodities under that category. Section 62 gives the State Government power to “add to, amend or cancel any of the items of agricultural produce specified in the Schedule”. Thus, the Act provides a method by which a commodity can be added to, changed or removed from the Schedule. This provision has to be kept in mind while considering whether a commodity which is not named can nevertheless be brought within an existing class by interpretation. At the same time, Section 62 does not mean that every commodity which falls within an existing general expression must separately be inserted by its individual name. If the language of an existing entry covers a commodity, separate mention of its name may not be necessary. Therefore, the question is whether Hing falls within the existing expression. The absence of the separate word “Hing” is not by decisive. In this connection, the statutory recognition of Asafoetida as a spice becomes important. The Petitioner is not seeking to include some unrelated commodity in the Schedule. Its case is that a product which is recognised in law as a spice is covered by the existing entry relating to spices. This submission cannot be rejected merely because the exact word “Asafoetida” does not appear in the list of individually named commodities.

29. The submission of Respondent No. 1 that the Schedule “does not include ‘hing’” is therefore correct only to the limited extent that there is no separate entry using the exact words “Hing” or “Asafoetida”. But this does not end the inquiry. It is

still necessary to decide whether Hing falls within “मसाल्याचे पदार्थ”. The general expression cannot be treated as having no meaning apart from the individual commodities mentioned under it. The note placed by the learned AGP deals with pure Asafoetida and compounded Asafoetida. I do not find that this distinction is sufficient to exclude Hing from the relevant category. The Compounded Asafoetida Rules use the words “Compounded Asafoetida (Bandhani Hing)” and regulate it as a form of Asafoetida. The Food Safety Regulations recognise “Asafoetida (Hing or Hingra)” and compounded Asafoetida. Therefore, merely because the Hing sold in the market may be compounded, it does not for that reason alone cease to be Hing or Asafoetida.

30. The Order dated 15 October 2011 proceeded, according to the Petitioner, on the basis that Hing was not covered by the relevant Notification. The State Government thereafter confirmed the same view. However, two separate questions required consideration. The first was whether “Hing” is a spice. The second was whether “मसाल्याचे पदार्थ” used in the Maharashtra Notification includes Hing. These questions are connected, but they are not the same. Both required proper consideration. The State Government was required to consider the Petitioner's reliance upon the Spices Board Act, particularly the express inclusion of “Asafoetida” at Serial No. 34 of its Schedule. It was required to consider the material relating to compounded Asafoetida. If the authority did not accept this

material, it was required to give reasons as to why the same did not assist in understanding the expression “मसाल्याचे पदार्थ”. A conclusion without considering the main material placed by the Petitioner cannot be treated as proper consideration of its case.

31. I therefore find substance in the Petitioner's grievance regarding the manner in which the appellate order deals with its submissions. The authority was not required to accept the Petitioner's interpretation merely because Central Acts were relied upon. But it was required to consider those provisions and give reasons for accepting or rejecting the Petitioner's case. This was particularly necessary because the status of Hing as a spice was one of the main matters raised before the authority.

32. On the substantive question, the submission of Respondent No. 1 cannot be accepted in the broad manner in which it is made. It is true that “Hing” is not separately named in the Schedule. But that fact alone does not establish that Hing is outside the expression “मसाल्याचे पदार्थ”. The Central statutory material expressly recognising Asafoetida as a spice supports the Petitioner's case on this aspect.

33. Once it is accepted that “Asafoetida” is a spice, there is no sufficient reason in the material before the Court to exclude Hing from the general expression “मसाल्याचे पदार्थ” merely because its individual name is not separately repeated in the Schedule. Such a reading would give a narrow meaning to the class expression used in the Notification. It would require the

Court to read into the provision a limitation which is not found in the words used. I therefore hold that, on the material placed before the Court, “Hing” or “Asafoetida” falls within the expression “मसाल्याचे पदार्थ” used in the relevant Notification dated 8 December 2005. Consequently, it cannot be held that the Petitioner had no legal basis to treat Hing as covered agricultural produce for the purpose of regulation and levy of market fee. This finding is confined to the issue arising in the present Petition. It does not mean that every food product containing a spice will become a spice or become liable to market fee under the Said Act. The product must still be shown to fall within the relevant statutory entry. In the present case, however, there is statutory material recognising Asafoetida as a spice, and the Maharashtra Schedule contains the class expression “मसाल्याचे पदार्थ”.

34. For these reasons, the finding of the Director of Marketing that “Hing”, that is, “Asafoetida”, is not covered by the relevant Notification cannot be upheld. The subsequent appellate order dated 4 September 2014, which confirms that finding cannot be sustained.

35. The Petition therefore succeeds. The Judgment and Order dated 4 September 2014 passed by the State Government in Appeal No. 2 of 2012 and the Order dated 15 October 2011 passed by the Director of Marketing are liable to be set aside. It is held that “Hing” or “Asafoetida” is covered by the expression “मसाल्याचे पदार्थ” in the Notification dated 8 December 2005. The

Petitioner is consequently entitled to levy and recover market fee in accordance with Section 31 of the Said Act, subject to the other applicable provisions of the Said Act, the Rules and the relevant notifications.

36. The Writ Petition is allowed in terms of the following order:

(i) The Judgment and Order dated 4 September 2014 passed by the State Government in Appeal No. 2 of 2012 is quashed and set aside;

(ii) The Order dated 15 October 2011 passed by Respondent No. 2, Director of Marketing, is quashed and set aside;

(iii) It is held that “Hing”, known as “Asafoetida”, is covered by the expression “मसाल्याचे पदार्थ” (spices) in the Notification dated 8 December 2005 and is accordingly covered for the purposes of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963;

(iv) Consequently, the Petitioner is entitled to levy and recover market fee on “Hing”/“Asafoetida” in accordance with Section 31 of the Said Act and the applicable Rules and notifications;

(v) Respondent No. 1 shall be liable to pay the market fee in accordance with law, subject to adjustment of any amount paid, if applicable;

- (vi) Rule is made absolute in the aforesaid terms;
- (vii) There shall be no order as to costs.

(AMIT BORKAR, J.)