

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 3487 of 2005

District : Latur

M/s. Rajlaxmi Petrochem Pvt. Ltd.,
A private limited company incorporated
under the provisions of the Companies
Act 1956, having their distillery cum
Ethanol manufacturing unit at Plot
No. A-105 to 107, Addl. Latur Industrial
Area, Taluka : Latur, District : Latur,

Through J.S. Chitkotte,
GPA holder.

.. Petitioner.

versus

1. The State of Maharashtra,
through Secretary,
Government of Maharashtra,
Home (Transport) Department,
Mantralaya, Mumbai - 400 020.

2. Commissioner of State Excise,
Old Custom House,
Mumbai - 400 032.

3. The Collector of Latur
(State Excise Department),
Latur, District : Latur.

.. Respondents.

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*Mr. N.S. Shah, Advocate, holding for
Mr. D.B. Sawant, Advocate, for the petitioner.*

*Mrs. M.A. Deshpande, Asst. Government Pleader,
for respondent nos.1 to 3.*

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**CORAM : S.V. GANGAPURWALA &
A.M. BADAR, JJ.**

DATE : 26TH FEBRUARY 2016

ORAL JUDGMENT (Per S.V. Gangapurwala, J.) :

1. Mr. Sawant, the learned Counsel for the petitioner, had earlier made a request to delete prayer clauses 'a', 'b', 'c' and 'd'. The same were allowed to be deleted vide order dated 17th February 2016. So also, the words '*Pending the hearing and final disposal of this petition*' were allowed to be deleted from prayer clause 'e'.

2. The Writ Petition, as such, was prosecuted only with regard to prayer clause 'e'. Thereafter on 24th February 2016, the learned Counsel for the petitioner further stated that he would restrict the present Writ Petition only to the extent of Transportation Fees / Administrative Fees and would not press the present petition with regard to the Export and Import Fees. The same was recorded vide order dated 24th February 2016.

3. As such, the present petition is being considered only to the extent of Administrative Fees / Administrative Fees.

4. We have heard the learned Counsel for the petitioner and the learned Asst. Government Pleader for the respondents.

5. Upon instructions, Mrs. Deshpande, the learned Asst. Government Pleader, states that the Administrative Fees, as is detailed in Rule 50 of the Bombay Denatured Spirit Rules 1957, is synonymous to Transport Fees.

6. Reliance is placed by the learned Counsel for the petitioner, on the judgment of Division Bench in the case of ***Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd., District Solapur Vs. State of Maharashtra & others***, reported in ***2011(3) ALL MR 852***, wherein this Court, even in case of non-captive users, has restrained the respondents from recovering Transport Fees on the ground that the respondent - State is already charging supervision charges and no further and / or additional service is being rendered by the State Government in connection with the transport of the said products, so as to justify the levy of transport fee on non-captive users which would meet the requirement of quid pro quo. It is submitted by the learned Counsel, that the judgment in the case of ***Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd.***, referred supra, has not been stayed by the Hon'ble Apex Court. If the said judgment is assailed before the Hon'ble Apex Court, naturally parties would be governed by the judgment that would be delivered by the Hon'ble Apex Court.

7. In the light of the judgment of the Division Bench of this Court in the case of ***Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd.***, referred supra, we allow the present petition to the extent of restraining the respondents from charging Transport Fees on the Denatured Spirit or Ethenol, as prayed.

8. Rule is made absolute in the above terms. No costs.

(A.M. BADAR)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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