

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

WRIT PETITION NO. 7430 OF 2005

Hindustan Petroleum Corporation Ltd.
Liquified Petroleum Gas Bottling Plant,
Plot No. H-1, M.I.D.C. Chikalthan, Aurangabad.
Through it's Senior Regional Manager,
Shri. Dagadu s/o krishna Sarode,
Age: 58 years, Occ. Service,
R/o. 401, H.P.C.L. Housing Complex, N-2,
CIDCO, Aurangabad.

... Petitioner

VERSUS

1. The State of Maharashtra,
2. The Commissioner,
Municipal Corporation, Aurangabad,
Dist. Aurangabad.
3. The Octopi-Superintendent, Municipal Corporation,
Aurangabad, Dist. Aurangabad.

... Respondents

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Smt Anjali Bajpai Dube, Advocate for the petitioner
Mr S. S. Tope, Advocate for respondent respondent-Municipal
Corporation
Mr A. P. Basarkar, AGP for respondent/State
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**CORAM : S. V. GANGAPURWALA &
A. M. BADAR, JJ.**

DATE : 4TH MARCH, 2016.

ORAL JUDGMENT (Per S. V. GANGAPURWALA, J.) :-

. Smt. Dube, learned counsel for the petitioner states that, the demand of octroi even in respect of the goods, which are exported beyond the Municipal limits, is illegal, so also the respondent cannot charge 10% octroi on export of goods as per their letter. According to learned counsel, 14% of the LPG cylinders are consumed within the municipal limits and 86% are exported outside the municipal limits of Aurangabad for the purpose of use, consumption and sale. However, the respondents are charging octroi on the entire product, the same is illegal and not in consonance with the statute.

2. Mr Tope, learned counsel for respondent-Municipal Corporation submits that, there is a procedure prescribed under the Octroi Rules. As the petitioner was provided with the facility of current account, the petitioner was required to submit monthly statement of goods consumed within the municipal limits. Within the municipal limits, 100% octroi is required to be paid and in respect of the sale

outside the municipal limit, 10% of the octroi is required to be paid. The petitioner did not adhere to the same.

3. We had heard the matter on 3.3.2016. It was adjourned to today so as to enable learned counsel for the petitioner to take instructions as to whether the petitioner would submit the record and necessary documents with the Municipal Corporation in order to enable the Municipal Corporation to arrive at the conclusion as to the goods exported outside the municipal limits and the goods consumed within the municipal limits. Charge of 10% of the Octroi in respect of the goods which are used, consumed and sold outside the municipal limit is in consonance with the Octroi Rules, more particularly Rule 16 thereof. The said rules are not the subject matter of challenge in the present writ petition. Mr Tope, learned counsel, on instructions, states that, if the petitioner submits the documents, the Corporation would consider the said documents and take appropriate decision upon the same.

4. Pursuant to the interim orders passed by this Court, it is submitted that the petitioner was directed to deposit Rs. 50,000/- and thereafter to pay Rs. 3,000/- for every tanker. The said amount deposited was pursuant to the orders of this Court. The Corporation

shall consider the documents submitted by the petitioner with regard to the goods consumed within the municipal limits and the goods which are exported outside the municipal limits and take decision on the same for the period from 15.02.2006 to June 2011. The Corporation shall endeavour to take decision expeditiously, preferably within a period of six months from the date of receipt of the documents. The petitioner may present itself through its authorized officer before the Municipal Corporation as may be required. In case, the respondent-Municipal Corporation comes to the conclusion that the less amount is payable by the petitioner than what has been already paid then the remaining amount shall be refunded to the petitioner and if petitioner is required to pay more than what is deposited, the petitioner shall comply with the order of the Corporation in that regard. We have not relegated the petitioner to the remedy of appeal, however, have directed the respondent to consider the documents that would be submitted to it and take decision afresh in respect of payment of octroi by the petitioner for period from 15.02.2006 to June 2011.

5. Rule accordingly disposed of. No costs.

[A. M. BADAR, J.]

[S. V. GANGAPURWALA, J.]

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