IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9498 OF 2013

Sangola Sahakari Sakhar Karkhana Ltd.,
Sangola ... Petitioner
v/s
Union of India and others ... Respondents

Mr Amol A. Gatne i/b Mr Sugandh B. Deshmukh for Petitioner.
Mrs N.V. Masurkar with Mr A.R. Varma, Mr Y.R. Mishra, Mr H.V. Mehta and Mr Upendra Lokegaonkar for Union of India.
Mr Manish Pable, AGP for Respondent – State.

CORAM: A.S. OKA AND A.A. SAYED JJ.

DATE : 3RD OCTOBER 2016.

P.C. :-

1. Heard learned counsel appearing for the Petitioner. As far as delivery of levy sugar from the sugar years 2012-13 onwards is concerned, the Government has dispensed with imposition of levy obligation. That is specifically recorded in the order dated 5th May 2015 passed by the Chief Director (Sugar) which was the subject matter of challenge in companion Writ Petition (St) No.32794 of 2015 filed by the present Petitioner. So far as as the levy sugar

upto the sugar year 2011-12 is concerned, the main challenge of the learned counsel appearing for the Petitioner is on the basis of clause 12 of order dated 16th May 2013 passed by the Government of India. Clause 12 reads thus :-

> "12. The transaction arising out of this direction shall be entirely and strictly on commercial basis between the producer and the consignee to whom levy sugar is delivered or dispatched in accordance with the instructions of the State Government/FCI/Admn. Any claim or dispute arising out of this transaction shall be responsibility of the producer and the consignee and no claim shall be against the Central Government by reason of issue of this direction."

The contention is that no information was furnished to the Petitioner about the consignee to whom the levy sugar is to be delivered or dispatched.

2. Writ Petition (St) No.32794 of 2015 filed by the present Petitioner for challenging the order dated 5th May 2015 has been dismissed today by a separate order. In paragraph 14 of the said order, the Chief Director (Sugar) has observed thus :-

> "Once the delivery details are confirmed by the sugar supplying entity, the cost amount of the allotted levy sugar is transferred to the bank account by the allottee of the levy sugar. As per our information no such procedure has been followed by the Petitioners. A copy of a sample Proforma invoice is enclosed herewith."

3. Hence the said challenge cannot be sustained. Moreover, after giving an opportunity of being heard to the Petitioner, a fresh order has been passed by the Chief Director (Sugar) on 5th May 2015.

4. Considering the above circumstances, there is no merit in the Petition and the same is rejected.

(A.A. SAYED J.) **(A.S. OKA J.)**