FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2309/2016
(BALAJI STONE CRUSHER **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri A. Parchure, counsel for the petitioner.
Shri H.D. Dubey, A.G.P. for the R-1 & 3.

CORAM : SMT.VASANTI A. NAIK AND V.M. DESHPANDE, JJ.

DATE : APRIL 18, 2016.

By this writ petition, the petitioner challenges the decision of the respondent no.2-General Manager, District Industries Centre, Amravati, dated 02.04.2016 rejecting the prayer of the petitioner for royalty refund.

The petitioner started a crusher unit at Masod, District Amravati, on 10.04.2012. It is the case of the petitioner that on the basis of the certificate of eligibility granted by the respondent no.2 to the petitioner on 20.03.2014 under the Package Scheme of Incentives, 2007, the petitioner is eligible for seeking refund of royalty. The petitioner, therefore applied to the respondent no.2 for royalty refund but, the prayer of the petitioner was rejected solely on the ground that the royalty refund was permissible only to the units that were dealing with major minerals and royalty refund was not permissible in respect of minor minerals.

Shri Parchure, the learned counsel for the petitioner, submitted that since the petitioner had started the crusher unit on 10.04.2012 on the basis of the package scheme of incentives of the year 2007 that provided for refund of royalty for the units dealing with major as well as minor minerals, royalty refund could not have been rejected on the ground that as per the circular dated 17.06.2011, royalty refund was payable only in respect of major minerals. It is submitted that the petitioner legitimately expected that the petitioner would be entitled to royalty refund as the petitioner had started the crusher unit under the Package Scheme of Incentives, 2007. It is stated that a similar issue was considered by this Court in Writ Petition No.137 of 2015 and this Court had directed the respondents to refund the royalty to the petitioner therein.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioner cannot be granted. It appears that the respondent no.2 was justified in rejecting the prayer made by the petitioner for royalty refund. No doubt, as per the Package Scheme of Incentives, 2007, royalty refund was payable to the units dealing with minor as well as major minerals. However, before the petitioner established the crusher unit on 10.04.2012 and started the unit, royalty refund was liable to be made only to the units dealing with major minerals. The circular of the State Government dated 17.06.2011 clearly provided for royalty refund only to the units dealing with major minerals. Since the petitioner had started the crusher unit after the Government Circular was brought into force on 17.06.2011, the petitioner was not entitled to claim the royalty refund as the petitioner was dealing in minor minerals. The judgment in Writ Petition No.137 of 2015 and relied on by the learned counsel for the petitioner cannot be made applicable to the facts of this case. In the said case, the petitioner therein had commenced the production in the year 2010-11, i.e. before the Circular was brought into force on 17.06.2011. In that background, this Court had held that the circular could not have retrospectively withdrawn the royalty refund benefit that had been extended to the units/industries that had availed the benefits of the Package Scheme of Incentives, 2007. The facts in Writ Petition No.137 of 2015 are clearly distinguishable and in the backdrop of those facts the claim of the petitioner therein was allowed. In the instant case, admittedly, the petitioner-Unit was not established before the circular dated 17.06.2011 was brought into force and the Package Scheme of Incentives, 2007 was modified and, hence, the petitioner would not be entitled to claim the royalty refund when the petitioner was dealing in minor minerals. The principle of Legitimate Expectation would not apply to the case of the petitioner as the petitioner was made aware even before the establishment of the crusher unit that the petitioner would not be entitled to royalty refund if the petitioner was dealing in minor minerals.

Since the order of the respondent no.2 appears to be just and proper, the writ petition is dismissed with no order as to costs.

JUDGE **JUDGE**

APTE