



W.P.Nos.9387 of 2014, 5321 of 2010 and 13755 of 2010
M.P.No.3 of 2010 in W.P.No.5321 of 2010, M.P.No.2 of 2010 in W.P.No.13755 of 2010

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.11.2022

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.P.Nos.9387 of 2014, 5321 of 2010

and 13755 of 2010

M.P.No.3 of 2010 in W.P.No.5321 of 2010

M.P.No.2 of 2010 in W.P.No.13755 of 2010

Sree Maruthi Agrotech Limited
Rep. By its Director
K. Gurumoorthy
S.No.1402, Kovalam Road,
Opp. Covelong Salt Factory Office
Kelambakkam – 603103.

... Petitioner
in W.P.No.9387 of 2014

Sree Maruthi Agrotech Limited
Rep. By its Director
S.E. Rahman,
Kovalam Road,
Kancheepuram District – 603103.

... Petitioner
in W.P.No.5321 of 2010

K. Gurumoorthy, Director
Sree Maruthi Agrotech Limited
Kovalam Road,



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M.P.No.3 of 2010 in W.P.No.5321 of 2010, M.P.No.2 of 2010 in W.P.No.13755 of 2010

Kelambakkam.

... Petitioner
in W.P.No.13755 of 2010

vs.

1.Salt Commissioner,
Ministry of Commerce and Industry,
Govt. of India,
“Lavan Bhavan”, No.2-A,
Lavan Marg, Jhalana Doongri,
Jaipur-302004.

2.Deputy Salt Commissioner,
II Block, 2nd Floor,
No.26, Haddows Road,
Shastri Bhavan, Nungambakkam,
Chennai-600006.

.. Respondents
(in all three Writ Petitions)

Prayer in WP.No.9387 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified to call for records from the First Respondent in respect of the impugned unapproved proposal in C.No.534P1/60/VOL.VII dated 28.08.2007 and quash the same; consequently, Demand Notice issued by the Second Respondent in C.No.12014(5)P/Tr/01/Vol.II/3048-3061 dated 11.03.2014 and quash the same.

Prayer in WP.No.5321 of 2010: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified to call for records from the Second Respondent in respect of the impugned unapproved proposal in C.No.534/P1/60/VOL.VIII/21111-12 dated 28.08.2007 as affirmed by the 1st Respondent in his proceedings C No.7(7)/P/2006 dated Nil and the consequential Notice issued by the Second Respondent in C.No.12014(5)P/TR/01.14655-58 dated 18.11.2009 and quash the same.



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Prayer in WP.No.13755 of 2010: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified to call for records from the Second Respondent in respect of the impugned unapproved proposal in C.No.534/P1/60/VOL.VIII/21111-12 dated 28.08.2007 along with the proceedings No. C No.7(7)/P/2006 dated Nil of the first respondent enhancing the Assignment Fee and the consequential order passed by the 2nd Respondent vide Notice in C.No.12014(5)P/TR/01.7363-66 dated 09.06.2009 and quash the same.

For Petitioner : Mr.V. Perumal

For Respondents : Mr. V. Chandrasekaran, SPC

COMMON ORDER

These Writ Petitions have been filed to quash the unapproved proposal in C.No.534P1/60/VOL.VII dated 28.08.2007, C.No.543/P1/60/VOL.VIII/21111-12 dated 28.08.2007 and C.No.543/P1/60/VOL.VIII/21111-12 dated 28.08.2007 and consequently the Demand Notices issued by the Second Respondent in C.No.12014(5)P/Tr/01/Vol.II/3048-3061, dated 11.03.2014; C.No.12014(5)P/TR/01.14655-58 dated 18.11.2009 and C.No.12014(5)P/ TR/01.7363-66 dated 09.06.2009, respectively.



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2.a. It is the contention of the Writ Petitioner that originally the Respondents granted a lease to one M/s. Chandy Flo Iodized Salt Co. (P) Ltd., for a period of 20 years from 08.05.2001 to 07.05.2021 in open tenders. The area assigned is 502.88 acres. Further leases were granted in favour of one M/s. Prince & Co. for an extent of 110.5 Acres; one Mr.K.Masilamani for an extent of 11.46 Acres and one Mr.K.N.Anantharamana and Mr.K.N.Kalyanaraman for an extent of 27.34 Acres of land.

2.b. The said M/s. Chandy Flo Iodized Salt Co. (P) Ltd., wrote a letter to the Second Respondent for transferring of lease right of 502.88 acres of land in favour of the Petitioner. Similarly, the other three parties viz. Shri K. Masilamani, M/s Prince and Company, and Shri K.N. Kalyanaraman/ Mr.K.N.Anatharaman also wrote letter dated 06.07.2007, 03.09.2009, 04.09.2007 respectively to the Second Respondent showing their willingness to transfer the land in favour of the Petitioner. The Petitioner also accepted the above transfers and wrote letter(s) of acceptance to the Second Respondent. The Petitioner had also given undertakings in each



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case agreeing to pay the Assignment Fee at the highest tender rate for the transferred lands in compliance with the departmental instructions issued by the Second Respondent.

2.c. It is the contention of the Petitioner that on 28.08.2007, guidelines were modified by the Second Respondent unilaterally proposing to charge Assignment Fee at the highest rate for the transfer of leasehold rights. It is still not approved by First Respondent or Government. As per the Government of India Resolution of 1961, there should be no charge of Assignment Fee in case of transfer of leasehold rights. Hence charging of highest rate is against the published and documented policy of Government of India (GOI). The Salt Department in an arbitrary manner has imposed a huge levy on the lessees in violation of the provisions of the GOI Resolutions of 1961 and 1969 which have the force of law. The modified guidelines of 28.08.2007 make no reference whatsoever to the Resolutions on the subject of Assignment Fee and was issued by the Respondents without the legal authority to make such a charge on the lessees in the absence of the approval of the competent authority of the Government of



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India, who is empowered to amend the existing Gazette Notification/Resolution in this regard. Applications for transfer of lease hold rights were made much before the modified guidelines dated 28.08.2007. So in effect, the Second Respondent is retrospectively applying the modified guidelines to impose the higher Assignment Fee on the Petitioner Company which is against the basic tenet of Law.

2.d. The Second Respondent for transferring of leasehold rights of M/s Prince & Co., K.M. Masilamani and KN Anatharaman in favour of the Petitioner Company on 02.05.2008 and also transfer the leasehold right in favour of the Petitioner from the Chandy Flo lodised Salt Co. Pvt. Ltd on 08.05.2008. Assignment Fee was increased to Rs.105.00 per MT from a minimum of Rs.1.10 per MT of salt to a Maximum of Rs.10.90 per MT. Hence, the increase in Assignment Fee comes to nearly 100 times if compared to the minimum and 10 times if compared to the maximum. Thus while transferring the leasehold rights of 652.18 acres of land in favour of the Petitioner Company, the Second Respondent fixed the Assignment Fee of Rs.105/- per MT per annum apparently based on a highest rate offered in



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a recent tender by the Second Respondent. The Petitioner also executed Agreements with the Second Respondent on 08.07.2008, 18.09.2008, 27.09.2008, 18.09.2008, 10.09.2008, 10.07.2008, 19.09.2008, 08.07.2008, 30.09.2008 and 08.07.2008 in respect of transfer of leasehold rights. It is stated that Assignment Fee is not an aspect of a contractual agreement between the Second Respondent and the Petitioner Company but a premium charged at the time of Assignment of lease of lands for setting up new salt factories.

2.e. The tender process where supposed offer of Rs.105/- per MT was made had never been completed. One IP Seeman has challenged the tender notification in Writ petition No. 19846 of 2006. The writ Court has granted interim stay, however, the Petitioner not being aware of the stay granted by this Court in W.P.No.19846/ 2006 and subsequent cancellation of the tender proceedings and also the Government Resolution and subsequent clarification Gazette Notification, paid the enhanced amount of Rs.9,00,000/- for the period from 01.01.2008 to 31.12.2008 on 02.05.2008, calculated on the basis of old rate upto 02.05.2008 and new rate after



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02.05.2008 to 31.12.2008 pursuant to the Order of the Second Respondent.

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The Petitioner has also paid an amount of Rs.6,00,000/- out of Rs. 14,00,000/- in respect of the year 2009 not being aware of the details of the order passed in Writ Petition No.19846 of 2006 or the cancellation of the tender proceedings. Hence it is the contention of the petitioner that the Assignment Fee fixed by the Second Respondent was arbitrary and illegal.

2.f. The demand for a sum Rs 68,47,890/- and Ground Rent of Rs.16,310/- alongwith penal interest for the years from 2010 to 2014 sought to be quashed in that writ petition. The main contention that the Assignment Fee has not been provided under the Government Notification. Hence demand notice sought to be quashed on the above ground.

3.a. Whereas, the contention of Respondents in the counter is that out of 39 recommendations made in this regard Government of India has accepted the Recommendations vide No.18(4)39-3 dated 03.05.1961 and issued order accepting the recommendation of Central Advisory Board for salt vide No. 16/23/63-Salt dated 20.06.1964 stipulated the levy of assignment fee @ Re.1/- per



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MT on salt produced and issued ground rent at the rate of Rs.2/- per acre/per annum. It also stipulated that working of revised assignment / formula should be reviewed from time to time (after two years) and the results of the review furnished to Government of India to take up with State Government concerned the question of following similar policy in respect of their salt lands. The recommendation No.17, 18, 19, 30 and 39 of the committee and their acceptance of Government of India passed under Resolution dated 03.05.1961 are as follows:

Recommendations of the Committee	Acceptance of Government of India vide Resolution dated 03.05.1961
No. 17- Special assistance should be given to salt manufacturer(s) in the matter of export of salt and a Committee be set up to draw up a suitable scheme for export promotion.	As the State Trading Corporation is being entrusted with the work of promoting exports of salt, no action need be taken on recommendation No.17(3(vii))
No. 18- Government lands should ordinarily be leased out for manufacture of salt for a period of 99 years and terms of the existing leases should be extended to the said period of 99 years.	Government accepts recommendation No.18 but would like to limit the period of lease to 20 years. Renewal of such leases for a further period of 20 years would be considered on merits at appropriate time on such terms and conditions as Govt. may decide. 3(ix)
No. 19- No further Assignment Fee should be charged for Government land leased for manufacture of salt in the event of a transfer of lease from one party to another or extension of existing lease.	Government also accepts committee recommendations No.19 except in cases of these salt works which did not pay any fees at the time of current assignment.3(ix)
No. 30 - Large scale salt manufacturers	The Government accepts recommendation



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Recommendations of the Committee	Acceptance of Government of India vide Resolution dated 03.05.1961
should be encouraged to effect of by-product of salts. No royalty should be charged on such by-products.	Nos.1,2,29,30 and 34. A plan will have to be drawn up for increasing the production of different varieties of salt taking into consideration the existing conditions or production in different regions. Production of all by products of salt will have to be encouraged as an integral part of the manufacturing programme under such plan. 3(i)
No. 39. A common pattern of levy of charges payable by the lessees of salt lands belonging to Central or State Governments should be adopted for the whole country. The ground rent should not exceed Rs.2 per acre. Other levies, like royalty wherever in existence should be abolished.	Government also broadly agree with recommendation No.39 and State Governments have already been addressed in the matter.

3.b. Subsequently with regard to Committee's recommendation No. 18 & 19, Government of India has issued order vide Resolution No.16/23/63-Salt New Delhi dated 19.12.1969 clarifying the Government of India decision detailed below:

Government lands will ordinarily be leased out for manufacture of salt for a period of twenty years only.

Request for renewal of any such leases for a further



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period not exceeding twenty years at a time would be considered on their merits at the appropriate time, on payment of such assignment fee/ground rent etc. and such other terms and conditions as Government from time to time decide upon.

No further assignment fee will be charged for Government salt lands lease for manufacture of salt in the event of a transfer of lease from one party to another during the period of its currency where the original lessee has paid the fees at the time of original assignment.

3.c. Hence it is the contention that assignment fee normally required to be collected in one lumpsum for the entire period of lease. Keeping this fact in mind Government has taken a decision not to charge further assignment fee in the event of transfer of leasehold rights from one party to another if the original lessee has made payment of fees at the time of



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original assignment. Therefore, the above resolution is not applicable to the facts of the case and all the lessees have opted for payment of assignment fee only on instalment basis and executed the lease agreement accordingly.

3.d. It is the further contention that the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) New Delhi while revising the Minimum Assignment Fee and Ground Rent to Rs.10/- and Rs.5/- respectively in its communication No.02011/2/2003-Salt dated 27.01.2004 has superseded its earlier communications including communication No.16(23)63-Salt dated 19.12.1969 and the Ministry of Industry (Department of Industrial Development) in their Communication dated 28.07.1987 has delegated special powers to various level of officers of Salt Department. According to the Special powers delegated by the Ministry, Salt Commissioner, Jaipur the 1 Respondent department is vested with full powers for lease of land for manufacture of salt through invitation of tender in a public manner and Regional Officers i.e. Deputy Salt Commissioner the 2nd Respondent department are granted powers upto 10 acres. Subsequently the powers delegated to 2nd Respondent upto 10 acres



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have been enhanced to 500 acres in Ministry of Industry communication No.05013/5/90-Salt dated 31-8-1990. Hence it is the contention that the Respondents Department are fully competent to take all decisions with regard to grant of lease and connected subject within the ambit of the powers conferred on them.

3.e. Based on the special powers conferred to Salt Department officers, a guideline has been formulated for transfer of lease hold rights which has been duly approved by the 1 Respondent department according to which, the transfer of leasehold rights will be permitted by the Department under Clause 12 of the lease deed executed, which places an obligation on the lessees to obtain the prior written consent of the lessor. The transfer of leasehold rights are being considered on genuine grounds only. In view of adoption of uniform policy for calculation of minimum assignment fee for all categories viz., Category I (above 100 acres), Category II (above 10 acres to 100 acres) and Category III (below 10 acres) the said guidelines has been modified during 2007 with the approval of Competent Authority.



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3.f. The Petitioner's Company had also applied with Respondent Department for considering the transfer and furnished necessary undertakings etc., and accepted the Department norms for effecting the transfer. After processing their applications with reference to guidelines/modified guidelines, the 2nd Respondent within the power vested on him, had fixed the Assignment fee of Rs.105/- per MT. per annum subject to minimum production of 20 MT per acre per annum which was the rate prevailing at the time of transfer taking place. The above norms are being followed in the Respondent Department since 1987 and the Petitioner is well known about the Department procedure in this regard. A similar proposal for transfer of leasehold rights has been accepted by the Petitioner Company's Sister's concern in another Salt Factory viz., Neidavasal Salt Factory during 2009 for which the Petitioner's Company had accepted the Department conditions and executed the fresh lease deed for the remaining period. In the instant case also, the Petitioner Company after complying the Department conditions has executed 10 separate lease deeds covering the



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total extent of lands of above 12 leases transferred in their favour and registered them at Sub-Registrar, Thiruporur. Hence it is submitted that the demand made by the second Respondent for the unpaid amount as per the impugned Notice dated 18.11.2009 is well within the ambit of the powers and jurisdiction of the second respondent. The Petitioner had also participated in all tender proceedings and offered the best rate among them. Hence, their acceptance of Highest Tender rate of Rs. 105/- Per for above 12 leases without realizing the fact is not acceptable. Hence it is his contention that the demand is raised as per guidelines and law as per the contract. Hence, the writ petition is liable to be dismissed.

4.a. Learned counsel appearing for the Petitioner mainly submitted that as per the resolution of the Government of India 1961 and 1969, the Government lands should ordinarily be leased out for manufacture of salt for a period of 99 years and terms of the existing leases should be extended to the said period of 99 years and Clause 6 of the resolution indicates that no further assignment fee will be charged for Government salt lands lease for manufacture of salt in the event of a transfer of lease from one party to



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another during the period of its currency where the original lessee has paid the fees at the time of original assignment. Subsequently, in the year 1969, the Government took a decision that lands will ordinarily be leased out for manufacture of salt for a period of twenty years only, by resolution dated 19.12.1969. Whereas the condition with regard to the assignment fee remain unchanged. According to the learned counsel no further assignment fee will be charged for the Government salt lands leased for manufacture of salt in the event of a transfer of lease from one party to another during the period of its currency where the original lessee has paid the fees at the time of original assignment.

4.b. It is his contention that the Government notification itself indicates that there is no assignment fee chargeable in the event of transfer of lease from one party to another. Secondly, the Deputy Salt Commissioner fixing the Assignment Fee at the rate of Rs.105/- during assignment is contrary to the Government notification. It is his further contention that the Deputy Salt Commissioner has no power for enhancement of such assignment fee and submitted that merely because the



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petitioner has entered into an agreement, agreeing to pay assignment fee fixed by the 2nd Respondent and given an undertaking to pay the enhance assignment fee that may not be operate as an estoppel since there cannot be any estoppel against the statute. Hence it is his contention that even in the year 2013 the notification issued by the Government makes it very clear that there is no mention about the modification of the original conditions adopted in the resolution of the year 1961 and 1969. What was approved in the year 2013 is only with regard to the restriction of the period of lease and no renewal of lease. Thereafter, only a fresh tender for the assignment of land for salt manufacture will be called. Hence, submitted that the demand notice including the assignment fee is contrary to the law of the land and resolutions. Therefore, he would submit that the same cannot be sustained in the eye of law.

5.a. Whereas, Mr. V. Chandrasekar, Senior Panel Counsel, appearing for the Respondents would submit that originally the lands have been leased out to various persons as the original lessees decided to transfer the lease, the petitioner also gave a representation for transfer of lease and the



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Petitioner has agreed to pay the Assignment fee at the prevailing highest tender rate and entered into the agreement. He has already paid the lease amount and assignment fee, after entering into contract. Now, he has challenged the same. Such challenge, according to him, cannot be sustained in the eye of law. It is his further contention that there was a delegation of power to the Deputy Salt Commissioner in respect of land upto 500 Acres, besides acceptance of single tender for lease of lands for salt manufacture upto Rs.25,000/-

5.b. As far as the Assignment Fee is concerned the Government India, Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) passed an order dated 27.01.2004 wherein it is clearly indicated that the order dated 27.01.2004 supersedes the earlier orders including the order 16(23)/63-Salt dated 19.12.1969. By superseding the above order, the Government has set out the procedure to be adopted for levy of assignment fee/lease money in the said States. Tamilnadu is also included in the above notification. As per Clause 9 of the above guidelines a procedure has been set out for calculating the minimum assignment. Only



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based on the above, highest tender rate was taken for fixing the Assignment Fee. The petitioner having given undertaken to pay the Assignment Fee at the highest tender rate prevailing at the given point of time and executed a contract, now cannot challenge the Assignment Fee. Therefore, submitted that the entire exercise of the Petitioner is only to delay the payment of money demanded legally, payable by the Petitioner. Hence, seeks dismissal of the writ petition.

6. Since the issues in all the Writ Petitions are with regard to the validity of the Assignment Fee fixed by the 2nd Respondent and consequent Demand Notice issued by him, this Court is inclined to dispose of all the Writ Petitions in this Common Order.

7. It is not in dispute that the Petitioner become assignee of the lease originally granted to various persons. Before entering into the relevant deeds in this regard, he has also given an undertaking to pay Assignment Fee at the highest tender rate prevailing in the factory or as fixed by the department for the remaining period of lease under Category I and to pay



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cess on salt clubbing all the leases. The undertaking is also available in the typed set and in various leases he has given such undertaking. That apart a Deed of Transfer of Leasehold rights also executed in favour of the Petitioner fixing 553 as ground rate and Assignment Fee of Rs.105/- per MT for the year 2008. All the Lease Deeds also filed in the typed set.

8. The main challenge for such Assignment Fee based on the Resolution of the Government of India in the year 1961 and 1969. In 1961 Resolution No.18/4/59-Salt dated 03.05.1961 Government has accepted the Recommendation No.18, however, would like to limit the period of lease to 20 years. Originally, the period of lease is upto 99 years. Thereafter, renewal of such lease for a further period of 20 years also be considered on merits at appropriate time, on such terms and conditions as Government may decide. The Government also accepted the Committee Recommendation No.19 while accepting various recommendations. Thereafter, in the year 19.12.1969 the Government has restricted the period of lease for 20 years in Resolution No.18 and in Resolution No.19 it is stated that no further assignment fee should be charged for Government salt



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lands leased for manufacture of salt in the event of a transfer of lease from one party to another or extension of an existing lease.

9. In the year 1961, Government has accepted that lease period is for 20 years and not 99 years and accepted various recommendations to the effect that request for renewal of any such leases for a further period not exceeding twenty years at a time would be considered on their merits at the appropriate time, on payment of such assignment fee/ground rent etc. and such other terms and conditions as Government from time to time decide upon. No further assignment fee will be charged for Government salt lands lease for manufacture of salt in the event of a transfer of lease from one party to another during the period of its currency where the original lessee has paid the fees at the time of original assignment.

10. Though above resolution dated 19.12.1969 makes it clear that no assignment fee would be charged in the event of transfer of lessee from one party to another during the period of its currency where the original lessees had paid fees at the time of the original assignment. It is relevant to note



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that it is not the case of the petitioner that the original lessee has paid the original assessment fee at the time of original assignment. Therefore, this Court is of the view that unless the original lessee has cleared all the assignment amount during the period of its currency, the Petitioner cannot take advantage of the Resolution.

11. Be that as it may. Before enhancing the assignment fees, the permission also sought from the Salt Commissioner by the 2nd Respondent. Vide letter in C.No.534/P1/60/VOL.VII/24151-52 dated 25.10.2007. The Ministry of Law & Justice also sent a letter stating that suggestion made by the Department is in order. Therefore, the department is advised to take necessary action to amend the lease deed to be executed as per the suggestion made by them. It is also to be noted that the delegation of powers to Regional Officers have been made by the Ministry of Industry (Department of Industrial Development) on 28.07.1987 and the delegation of powers to the Deputy Salt Commissioner given to an extent of 500 Acres and the communication from the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) dated 27.01.2004



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indicated that the recommendations of CAB for Salt made in the meeting held in New Delhi on 28.08.2003 and the proposal of the Salt Commissionerate for revision of assignment fee/lease money and ground rent has been under consideration of the Government and the President is pleased to revise the assignment fee/lease money and ground rent as under:-

(i) Assignment fee/Lease Money has been revised to Rs.10/- per tonne per annum of Salt produced and issued subject to minimum production of salt in respect of each state.

(ii) Ground rent has been revised to Rs.5/- per acre per annum.

2. For the purpose of levy of assignment fee minimum production of salt in terms of tonnes per acre per annum has been fixed at the following rates in respect of salt land owned by the Salt Commissionerate in the following States:-

State	production of salt in MT/AcrMinimum/Annu m
Gujarat	30



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State	production of salt in MT/AcrMinimum/Annu m
Andhra Pradesh	20
Maharashtra	20
Karnataka	20
Orissa	10
Tamil Nadu (other than Tuticorin area)	20
Tamil Nadu (Tuticorin area)	75

12. A perusal of the above communication indicate that the order supersedes the following orders issued by the Ministry of Industry, Department of Industrial Development. Para 3 of the above communication is as follows:

*“3. This order supersedes the following orders issued
by the Ministry of Industry Department of Industrial
Development-*

- (i) 18(4)/50-Salt (Pt. Vil) dated the 7th Dec, 1961*
- (ii) 16/23/63-Salt dated 20th June, 1961*
- (iii) 16/23/63-Salt dated 22nd July, 1964*
- (iv) 16(23)63-Salt dated 19th Dec. 1969*
- (v) 04014/1/89-Salt dated 24th July 1989”*



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which includes the order 16(23)/63-Salt dated 19.12.1969. Therefore, this communication itself indicate that President of India revised the Assignment Fee and Ground Rent as referred above, wherein all the previous orders including 1969 has been superseded. Therefore, the Petitioner now cannot challenge the Assignment fee merely on the ground that on the basis of the information sought from the authorities through RTI. The letter dated 27.01.2004 itself informs that the Government has considered the recommendations and revised the Assignment Fees and the President pleased to revise the assignment and superseded the earlier orders. In such a view of the matter when the very communication has been relied upon by the Respondent and revised the Assignment Fee as per guidelines is also on the basis of the highest rate quoted in the tender, it cannot be said by the Petitioner that such fixation of the Assignment is contrary to law.

13. Much reliance has also placed by the learned counsel for the Petitioner for the Notification published by the Ministry of Commerce and Industry dated 9.10.2013 which reads as follows:



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“MINISTRY OF COMMERCE AND INDUSTRY RESOLUTION

New Delhi, the 9th October, 2013

S.O. 2301 - The policy on the renewal of leases of Central Government land under the administrative control of Salt Commissioner leased out for manufacture of salt was considered and the President in partial modification of the Government Resolution No. 18(4)/59-Salt (Pt. VIII) dated 7th December, 1961 and further clarified under Government Resolution No. 16(23)/63-Salt dated 19th December, 1969, is pleased to approve that:-

(a) Central Government land will be leased out for salt manufacture for a period of 20 years by invitation of tender.

(b).No renewal of lease will be done. Fresh tender for the assignment of land for salt manufacture will be called. The present lessee on expiry of the existing lease may participate along with fresh aspirants.

*[No. 04014/1/2012-Salt]
SANJIVANI TAMHANE, Dy. Secy.”*

14. A perusal of the above notification, it does not speak about the superseding an earlier order of the Government dated 27.01.2004. Further the notification of the year 2013 referred in S.O.2301 what was approved is that the land will be leased out for salt manufacture for a period of 20 years by invitation of tender and no renewal of lease will be done. Fresh tender for the assignment of land for salt manufacture will be called. The present lessee on expiry of the existing lease may participate along with fresh



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aspirants. Except that there is no change in the Government Order dated 27.01.2004. Therefore, the contention of the learned counsel for the Petitioner that unless there is a specific Gazette publication for enhancement of Assignment Fee mere by the Government letter or order, the assignment fee cannot be enhanced, has no leg to stand.

15. As long as the Respondents have acted as per the instructions of the Government, there was a delegation of power in favour of the 2nd Respondent to exercise the power, unless the executive order declared as void by the competent forum and set aside, it is not permissible for this Court to ignore the said communication dated 27.01.2004 setting out the guidelines for fixing the assignment fee.

16. In the regard the Honourable Apex Court in ***Krishnadevi Malchand Kamathia and Others v. Bombay Environmental Action Group and Others [(2003) 3 SCC 363]*** has held in para 16 as follows:

“16. It is a settled legal proposition that even if an



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order is void, it requires to be so declared by a competent forum and it is not permissible for any person to ignore the same merely because in his opinion the order is void. In State of Kerala v. M.K. Kunhikannan Nambiar Manjen Manikoth Naduvil, Tayabbhai M. Bagasarwalla v. Hind Rubber Industries (P) Ltd., M. Meenakshi v. Metadin Agarwal and Sneh Gupta v. Devi Sarup, this Court held that whether an order is valid or void, cannot be determined by the parties. For setting aside such an order, even if void, the party has to approach the appropriate forum.”

17. In such a view of the matter, as long as the Government Order dated 27.01.2004 referred above, which is not set aside and the Assignment Fee has been fixed as per the guidelines and the Petitioner has also undertaken to pay the Assignment Fee and entered contract while transfer of lease, now cannot question the demand notice. The Petitioner in fact have paid the Assignment Fee at the rate agreed in the contract. After some time he has filed the writ petition in the year 2014. Therefore, when the petitioner himself agreed to pay the amount and acted upon in terms of the



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contract and agreed to take the land for certain consideration they cannot go beyond the terms of contract. At any event as the Government orders empowers the Deputy Salt Commissioner to fix the Assignment Fee at the rate of highest tender, the same cannot be found fault. This Court do not find any merits in these writ petitions. The demand notices sent by the Respondents are upheld in all the writ petitions.

18. Accordingly all the three Writ Petitions are dismissed.
Consequently connected Miscellaneous Petitions are closed. No costs.

21.11.2022

Speaking/Non speaking order

Index : Yes/No

Internet : Yes/No

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Copy to:

1.Salt Commissioner,

Ministry of Commerce and Industry,

Govt. of India, "Lavan Bhavan", No.2-A,

Lavan Marg, Jhalana Doongri, Jaipur-302004.

N.SATHISH KUMAR, J.

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2.Deputy Salt Commissioner, II Block, 2nd Floor,
No.26, Haddows Road, Shastri Bhavan, Nungambakkam,
Chennai-600006.

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21.11.2022