

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 13720 OF 2017**

M/s. Daund Sugar Pvt. Ltd., Through  
Its Distillery Manager ...Petitioner  
Versus  
The State Of Maharashtra, Through  
Principal Secretary And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 429 OF 2018**

M/s. Nsl Krishnaveni Sugars Ltd. ...Petitioner  
Versus  
The State Of Maharashtra  
Through Principal Secretary And Anr. ...Respondents

**WITH  
WRIT PETITION NO. 430 OF 2018**

M/s. Vijaynagar Sugar Pvt. Ltd. ...Petitioner  
Versus  
The State Of Maharashtra,  
Through Principal Secretary And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 405 OF 2019**

M/s. Venkateshwara Power  
Project Ltd. (distillery Div.) ...Petitioner  
Versus  
The State Of Maharashtra Thru. Prin.  
Secretary, Home ( State Excise) Dept. And Anr. ...Respondents

**WITH  
WRIT PETITION NO. 426 OF 2018**

M/s. Shree Renuka Sugars Ltd. ...Petitioner  
Versus  
The State Of Maharashtra,  
Through Principal Secretary And Anr. ...Respondents

**WITH  
WRIT PETITION NO. 427 OF 2018**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Shree Renuka Sugars Ltd.                                     | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra, Through<br>Principal Secretary And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 428 OF 2018**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Shree Renuka Sugars Ltd.                                     | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra, Through<br>Principal Secretary And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 431 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Sharayu Agro Industries Ltd.                                | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 466 OF 2018**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. E.i.d. Parry (india) Ltd.                                    | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra Through<br>Principal Secretary, And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 782 OF 2018**

|                                                                                                    |                |
|----------------------------------------------------------------------------------------------------|----------------|
| Baramati Taluka Sahakari Doodh<br>Utpadak Sangh Maryadit, Through<br>Its Authorised Representative | ...Petitioner  |
| Versus                                                                                             |                |
| The State Of Maharashtra And Ors.                                                                  | ...Respondents |

**WITH  
WRIT PETITION NO. 1061 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. John Distilleries Pvt. Ltd.                                 | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary and Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 2360 OF 2018**

|                                                                    |                |
|--------------------------------------------------------------------|----------------|
| M/s. N.s. Enterprises Thr.its Prop.<br>Mr. Nitin Shivajirao Shinde | ...Petitioner  |
| Versus                                                             |                |
| The State Of Maharashtra Thr.<br>Principal Secretary And Ors.      | ...Respondents |

**WITH  
WRIT PETITION NO. 1258 OF 2018**

|                                                                            |                |
|----------------------------------------------------------------------------|----------------|
| M/s. Appasaheb Nalawade Gadhinglaj<br>Taluka Sahakari Sakhar Karkhana Ltd. | ...Petitioner  |
| Versus                                                                     |                |
| The State Of Maharashtra , Through<br>Principal Secretary And Ors.         | ...Respondents |

**WITH  
WRIT PETITION NO. 1257 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Hermes Distillery Pvt. Ltd.                                 | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 2260 OF 2019**

|                                                                                      |                |
|--------------------------------------------------------------------------------------|----------------|
| M/s. Vardhan Agro Processing Ltd.                                                    | ...Petitioner  |
| Versus                                                                               |                |
| The State Of Maharashtra Thru Prin.<br>Secretary, Home (state Excise) Dept. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 2445 OF 2018**

|                                                                        |                |
|------------------------------------------------------------------------|----------------|
| Kn Resources Pvt. Ltd.                                                 | ...Petitioner  |
| Versus                                                                 |                |
| The State Of Maharashtra , Through<br>Its Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 1832 OF 2018**

|                                                                        |                |
|------------------------------------------------------------------------|----------------|
| M/s. Ab Mauri India Pvt. Ltd.                                          | ...Petitioner  |
| Versus                                                                 |                |
| The State Of Maharashtra ,<br>Through Its Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 3632 OF 2018**

|                                                                        |                |
|------------------------------------------------------------------------|----------------|
| The Distillers Association Of<br>Maharashtra And Ors.                  | ...Petitioners |
| Versus                                                                 |                |
| The State Of Maharashtra , Through<br>Its Principal Secretary And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 1833 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Shree Renuka Sugar Ltd.                                     | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 2318 OF 2018**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Jakraya Sugar Ltd.                                           | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra Through<br>Principal Secretary, And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 2317 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Shivamrut Doodh Utpadak<br>Sahakari Sangh Ltd.              | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 2961 OF 2018**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| Jai Hind Feeds Through Mr. M.k. Jamdar,                           | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra Through<br>Principal Secretary, And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 3419 OF 2019**

|                                                     |                |
|-----------------------------------------------------|----------------|
| M/s. Shri Shankar Sahakari Sakhar Karkhana Ltd.     | ...Petitioner  |
| Versus                                              |                |
| The State Of Mah. Thru<br>Principal Secty. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 5459 OF 2018**

|                                                           |                |
|-----------------------------------------------------------|----------------|
| M/s. Jakraya Sugar Ltd.                                   | ...Petitioner  |
| Versus                                                    |                |
| The State Of Maharshtra Through<br>Principal Sec., & ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 4843 OF 2018**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Godavari Biorefineries Ltd.                                  | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra Through<br>Principal Secretary, And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 3616 OF 2018**

|                                                                       |                |
|-----------------------------------------------------------------------|----------------|
| M/s. Shriram Sahakari Sakhar Karkhana Ltd.                            | ...Petitioner  |
| Versus                                                                |                |
| The State Of Maharashtra, Through<br>Its Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 3166 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| Kolhapur Zilla Sahakari Dudh Utpadak Sangh Ltd.                  | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 3617 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Kothari Sugars And Chemicals Ltd.                           | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 4019 OF 2023**

|                                                               |                |
|---------------------------------------------------------------|----------------|
| Satyam Distilleries And Industries Pvt. Ltd                   | ...Petitioner  |
| Versus                                                        |                |
| The State Of Maharashtra Thr.<br>Principal Secretary And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 3890 OF 2019**

|                                                                                       |                |
|---------------------------------------------------------------------------------------|----------------|
| M/s. Utopian Sugars Ltd.                                                              | ...Petitioner  |
| Versus                                                                                |                |
| The State Of Maharashtra Thru Prin. Secretary ,<br>Home (state Excise) Dept. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 3891 OF 2019**

|                                                                                       |                |
|---------------------------------------------------------------------------------------|----------------|
| M/s. Starchem Industries                                                              | ...Petitioner  |
| Versus                                                                                |                |
| The State Of Maharashtra Thru Prin.<br>Secretary , Home (state Excise) Dept. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 4254 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Indian Sugar Manufacturing Co. Ltd.                         | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 4238 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Shri Saikrupa Sugar And Allied Industries Ltd.              | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through Principal<br>Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 4255 OF 2018**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Calgara Worldwide Pvt. Ltd.                                  | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra, Through<br>Principal Secretary And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 4880 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Oaisis Alcohol Ltd.                                         | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 4616 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Kisan Agro Through Its Partner                              | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 4881 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Kamdhenu Agrovat Thorough Its Partner                       | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 4882 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Kamdhenu Agrovat Thorough Its Proprietor                    | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 5535 OF 2019**

|                                                                      |                |
|----------------------------------------------------------------------|----------------|
| M/s. Neha Trading Co. Through<br>Its Proprietor Shri. D.d. Khimani   | ...Petitioner  |
| Versus                                                               |                |
| The State Of Maharashtra Through<br>The Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 6432 OF 2018**

|                                   |                |
|-----------------------------------|----------------|
| M/s. Ravindra And Company Ltd.    | ...Petitioner  |
| Versus                            |                |
| The State Of Maharashtra And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 3133 OF 2022**

|                                                                                         |                |
|-----------------------------------------------------------------------------------------|----------------|
| M/s. Siddhi Sugar And Allied Industries Ltd.                                            | ...Petitioner  |
| Versus                                                                                  |                |
| The State Of Maharashtra Through Prin.<br>Secretary, Home (state Excise) Dept. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 9545 OF 2019**

|                                                                                         |                |
|-----------------------------------------------------------------------------------------|----------------|
| M/s. Swaraj India Agro Ltd.                                                             | ...Petitioner  |
| Versus                                                                                  |                |
| The State Of Maharashtra Through Prin.<br>Secretary, Home (state Excise) Dept. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 9289 OF 2019**

|                                                                                          |                |
|------------------------------------------------------------------------------------------|----------------|
| M/s. Dwarkadhish Sakhar Karkhana Ltd.                                                    | ...Petitioner  |
| Versus                                                                                   |                |
| The State Of Maharashtra Through Prin.<br>Secretary, Home ( State Excise) Dept. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 7722 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Shamanur Sugars Ltd.                                        | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 3131 OF 2022**

|                                                                                         |                |
|-----------------------------------------------------------------------------------------|----------------|
| M/s. Harsco India Pvt. Ltd.                                                             | ...Petitioner  |
| Versus                                                                                  |                |
| The State Of Maharashtra Through Prin.<br>Secretary, Home (state Excise) Dept. And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 3129 OF 2022**

|                                                                                         |                |
|-----------------------------------------------------------------------------------------|----------------|
| M/s. Bhalkeshwar Sugars Ltd.                                                            | ...Petitioner  |
| Versus                                                                                  |                |
| The State Of Maharashtra Through Prin.<br>Secretary, Home (state Excise) Dept. And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 3128 OF 2022**

|                                                                                         |                |
|-----------------------------------------------------------------------------------------|----------------|
| M/s. Nirani Sugars Ltd.                                                                 | ...Petitioner  |
| Versus                                                                                  |                |
| The State Of Maharashtra Through Prin.<br>Secretary, Home (state Excise) Dept. And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 4176 OF 2003**

|                               |                |
|-------------------------------|----------------|
| Ashok Alco-chem Ltd.          | ...Petitioner  |
| Versus                        |                |
| State Of Maharashtra And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 9495 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Shree Warna Sahakari Dudh Utpadak<br>Prakriya Sangh Ltd.    | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 10858 OF 2018**

|                                                                                         |                |
|-----------------------------------------------------------------------------------------|----------------|
| M/s Rajmata Industries Thru Partner,<br>Mr. Ashok Damodar Survase                       | ...Petitioner  |
| Versus                                                                                  |                |
| The State Of Maharashtra Thru Principal Secretary,<br>Home (state Excise) Dept. And Ors | ...Respondents |

**WITH  
WRIT PETITION NO. 11279 OF 2018**

|                                                                                          |                |
|------------------------------------------------------------------------------------------|----------------|
| M/s Som Distilleries Pvt. Ltd.                                                           | ...Petitioner  |
| Versus                                                                                   |                |
| The State Of Maharashtra Thru Principal Secretary,<br>Home( State Excise) Dept. And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 13386 OF 2018**

|                                                                                            |                |
|--------------------------------------------------------------------------------------------|----------------|
| M/s Aurangabad Distillery Pvt. Ltd.                                                        | ...Petitioner  |
| Versus                                                                                     |                |
| The State Of Maharashtra Thru Principal Secretary,<br>Home ( State Excise ) Dept. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 11280 OF 2018**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. New Phaltan Sugar Works Distilleries Div. Ltd.              | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 11281 OF 2018**

|                                                                                           |                |
|-------------------------------------------------------------------------------------------|----------------|
| M/s Krantigrani Dr. G. D. Bapu Lad<br>Sahakari Sakhar Karkhant Ltd.                       | ...Petitioner  |
| Versus                                                                                    |                |
| The State Of Maharashtra Thru Principal Secretary,<br>Home ( State Excise) Dept. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 13364 OF 2018**

|                                                                                           |                |
|-------------------------------------------------------------------------------------------|----------------|
| M/s. Jaywant Sugars Ltd. karad,                                                           | ...Petitioner  |
| Versus                                                                                    |                |
| The State Of Maharashtra Thru Principal Secretary,<br>Home ( State Excise) Dept. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12198 OF 2017**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Sagar Industries Distilleries Pvt. Ltd.                      | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra, Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12211 OF 2017**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Kolhapur Sagar Mills Ltd.                                    | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra, Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12202 OF 2017**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Aurangabad Distillery Pvt. Ltd.                              | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra, Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12204 OF 2017**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Baramati Agro Ltd.                                           | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra, Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12213 OF 2017**

|                                                                       |                |
|-----------------------------------------------------------------------|----------------|
| M/s. Laxmi Organic Industries Ltd.                                    | ...Petitioner  |
| Versus                                                                |                |
| The State Of Maharashtra, Through<br>The Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12205 OF 2017**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Deshbhakta Ratnapanna Kumbhar<br>Panchganga Ssk Ltd.         | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra, Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12398 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Nira Bhima Sahakari Sakhar Karkhana Ltd.                    | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12421 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Karmayogi Shankarrao Patil S.s.k. Ltd.                      | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12399 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Indreshwar Sugar Mills Ltd.                                 | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12400 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Shreenath Mhaskoba Sakhar Karkhana Ltd.                     | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12677 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Brima Sagar Maharashtra Distilleries Ltd.                   | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12693 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Fabtech Sugar Pvt. Ltd.                                     | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12678 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| The Distillers Association Of Maharashtra And Ors.               | ...Petitioners |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Anr. | ...Respondents |

**WITH  
WRIT PETITION NO. 12679 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Loknete Baburao Patil Agro Industries Ltd.                  | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12680 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Khandoba Distilleries Ltd.                                  | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12681 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Vithalrao Shinde S.S.K. Ltd.                                | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12682 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| The Distillers Association Of Maharashtra And Ors.               | ...Petitioners |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12936 OF 2017**

|                                                                                             |                |
|---------------------------------------------------------------------------------------------|----------------|
| M/s. Dalmia Bharat Sugar And Industries Ltd.                                                | ...Petitioner  |
| Versus                                                                                      |                |
| The State Of Maharashtra Through Principal Secretary,<br>Home (state Excise) Dept. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 12934 OF 2017**

|                                                                    |                |
|--------------------------------------------------------------------|----------------|
| M/s. Deccan Overseas Pvt. Ltd.                                     | ...Petitioner  |
| Versus                                                             |                |
| The State Of Maharashtra , Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 2907 OF 2020**

|                                                                                             |                |
|---------------------------------------------------------------------------------------------|----------------|
| M/s. Atharv Intertrade Pvt. Ltd.                                                            | ...Petitioner  |
| Versus                                                                                      |                |
| The State Of Maharashtra Through Principal Secretary<br>Home ( State Excies) Dept. And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 13105 OF 2017**

M/s. Bhima S.s.k. Ltd. ...Petitioner  
Versus  
The State Of Maharashtra Through  
Principal Secretary And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 13107 OF 2017**

M/s. Shri Makai Sahakari Sakhar Karkhana Ltd. ...Petitioner  
Versus  
The State Of Maharashtra Through  
Principal Secretary And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 13108 OF 2017**

M/s. Vijaynagar Sugar Pvt. Ltd. ...Petitioner  
Versus  
The State Of Maharashtra Through  
Principal Secretary And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 13230 OF 2017**

M/s. Shree Renuka Sugars Ltd. ...Petitioner  
Versus  
The State Of Maharashtra, Through  
Principal Secretary And Anr. ...Respondents

**WITH  
WRIT PETITION NO. 13231 OF 2017**

M/s. Shree Renuka Sugars Ltd. ...Petitioner  
Versus  
The State Of Maharashtra, Through  
Principal Secretary And Anr. ...Respondents

**WITH  
WRIT PETITION NO. 3113 OF 2020**

M/s. Kpr Sugar Mill Ltd. ...Petitioner  
Versus  
The State Of Maharashtra Through Prin.  
Secretary, Home (state Excise) And Anr ...Respondents

**WITH  
WRIT PETITION NO. 13392 OF 2017**

Shrigurumurti Exports Pvt Ltd. Through  
Its Managing Director Shri. Prasad Uttamrao Patil ...Petitioner  
Versus  
The State Of Maharashtra Through Principal Secretary,  
Home Dept. And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 13732 OF 2017**

M/s. Manganga S.s.k. Ltd. ...Petitioner  
Versus  
The State Of Maharashtra Through Principal  
Secretary Home (state Excise) Dept. And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 13721 OF 2017**

M/s. Shri Ambalika Sugar Pvt. Ltd. Through  
Its Distillery Manager ...Petitioner  
Versus  
The State Of Maharashtra, Through  
Principal Secretary And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 13544 OF 2017**

M/s. Embio Ltd. ...Petitioner  
Versus  
The State Of Maharashtra, Through  
Principal Secretary And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 1612 OF 2021**

Mysore Mercantile Co. Limited  
Through Authorized Representative ...Petitioner  
Versus  
The State Of Maharashtra  
Through Principal Secretary And Anr. ...Respondents

**WITH  
WRIT PETITION NO. 13463 OF 2017**

Saf Yeast Co. Pvt. Ltd. ...Petitioner  
Versus  
The State Of Maharashtra, Through

Principal Secretary And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 13729 OF 2017**

M/s. Imcola (exports) Ltd. ...Petitioner

Versus

The State Of Maharashtra , Through  
Principal Secretary And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 13730 OF 2017**

M/s. Chandrashekhar Exports Private Limited ...Petitioner

Versus

The State Of Maharashtra , Through  
Principal Secretary And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 13731 OF 2017**

M/s. Godavari Biorefineries Ltd. ...Petitioner

Versus

The State Of Maharashtra Through  
Principal Secretary And Anr. ...Respondents

**WITH  
WRIT PETITION NO. 13847 OF 2017**

Athani Sugar Ltd. Through  
Its Execution Director Shri, Yogesh Patil ...Petitioner

Versus

The State Of Maharashtra Through Principal  
Secretary Home (state Excise) Dept. And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 13906 OF 2017**

M/s. Shri. Vidhnahar S.s.k Ltd. ...Petitioner

Versus

The State Of Maharashtra Through  
Principal Secretary, And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 13908 OF 2017**

M/s. Ss Distrilleries Pvt. Ltd. ...Petitioner

Versus

The State Of Maharashtra, Through  
Its Principal Secretary And Ors. ...Respondents

**WITH  
WRIT PETITION NO. 14047 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Laxmi Feeds And Foods                                       | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 14042 OF 2017**

|                                                                  |                |
|------------------------------------------------------------------|----------------|
| M/s. Betul Oil Ltd.                                              | ...Petitioner  |
| Versus                                                           |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 14055 OF 2017**

|                                                                      |                |
|----------------------------------------------------------------------|----------------|
| Shri. Padmavati Agro Industries Pvt. Ltd.                            | ...Petitioner  |
| Versus                                                               |                |
| The State Of Maharashtra Through The<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 14056 OF 2017**

|                                                                      |                |
|----------------------------------------------------------------------|----------------|
| M/s. Godrej Agrovvet Ltd.                                            | ...Petitioner  |
| Versus                                                               |                |
| The State Of Maharashtra Through The<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 14057 OF 2017**

|                                                                      |                |
|----------------------------------------------------------------------|----------------|
| M/s. R.m. Cattle Feed Industries                                     | ...Petitioner  |
| Versus                                                               |                |
| The State Of Maharashtra Through<br>The Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 433 OF 2018**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Bhairavnath Sugar Works Ltd.                                 | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra, Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 432 OF 2018**

|                                                                   |                |
|-------------------------------------------------------------------|----------------|
| M/s. Sun Impex Export And Import                                  | ...Petitioner  |
| Versus                                                            |                |
| The State Of Maharashtra, Through<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 2163 OF 2018**

|                                                                                                 |                |
|-------------------------------------------------------------------------------------------------|----------------|
| Solapur Zillah Dudh Utpadak Va Prikriya Sangh<br>Cattle Feed Manufaturing Unit Through Its A.s. | ...Petitioner  |
| Versus                                                                                          |                |
| The State Of Maharashtra Through<br>Principal Secretary And Ors.                                | ...Respondents |

**WITH  
WRIT PETITION NO. 1591 OF 2019**

|                                                                      |                |
|----------------------------------------------------------------------|----------------|
| M/s. New Phaltan Sugar Works Distilleries Div. Ltd.                  | ...Petitioner  |
| Versus                                                               |                |
| The State Of Maharashtra Through Its<br>Principal Secretary And Ors. | ...Respondents |

**WITH  
WRIT PETITION NO. 14601 OF 2018**

|                                                                      |                |
|----------------------------------------------------------------------|----------------|
| M/s. Integrated Service Point Pvt. Ltd.                              | ...Petitioner  |
| Versus                                                               |                |
| The State Of Maharashtra Through<br>Its Principal Secretary And Ors. | ...Respondents |

Adv. Joel Carlos for the petitioner in WP/13720/2017.

Mr. Abhijit B. Kadam a/w Mr. Prem Mhatre for Petitioner in WP/2360/2018 and WP/4616/2018.

Mr Samir Kumbhakoni for Petitioner in WP/10858/2018.

Adv Austin Fernendes i/b Denzil D'melloa for Petitioner in WP/13463/2017.

Mr Rahul P. Kasbekar a/w Mr. Swaroop Karade i/b Mr Surel S. Shah for Petitioner in wP/3166/2018.

Mr Sarang S. Aradhye a/w Ms Gauri Velankar a/w Ms. Shruti Kothavade for Petitioner in WP/2163/2018.

Mr Prasannan S. Namboodiri a/w Mr Tejal Darekar a/w Mr Rishabh Sinha for Petitioner in WP/13544/2017.

Mr. Shekhar Jagtap a/w. Sairuchita Chowdhary & Mr. Venkatesh Shinde i/b. J. Shekhar & Co. in WP/782/2018.

Mr D.B. Savant a/w Mr Vinayak Salokhe a/w Ms Megha Jani a/w Ms Sampada Khanolkar for Petitioner in WP/429/2018 a/w WP/430/2018

a/w WP/405/2019 a/w WP/430/2018 a/w WP/405/2019 a/w WP/426/2018 a/w WP/427/2018 a/w WP/428/2018 a/w

WP/431/2018 a/w WP/466/2018 Adv. a/w WP/1061/2018 a/w WP/1258/2018 a/w WP/1257/2018 a/w WP/2260/2019 a/w

WP/2445/2018 a/w WP/1832/2018 a/w WP/3632/2018 a/w WP/1833/2018 a/w WP/2318/2018 a/w WP/2317/2018 a/w

WP/3419/2019 a/w WP/5459/2018 a/w WP/4843/2018 a/w WP/3616/2018 a/w WP/3617/2018 a/w WP/3890/2019 a/w

WP/3891/2019 a/w WP/4254/2018 a/w WP/4238/2018 a/w WP/4255/2018 a/w WP/4880/2018 a/w WP/4881/2018 a/w

WP/4882/2018 a/w WP/5535/2019 a/w WP/6432/2018 a/w WP/3133/2022 a/w WP/9545/2019 a/w WP/9289/2019 a/w

WP/1612/2021 a/w WP/7722/2018 a/w WP/3131/2022 a/w WP/3129/2022 a/w WP/3128/2022 a/w WP/4176/2003 a/w

WP/9495/2018 a/w WP/11279/2018 a/w WP/13386/2018 a/w WP/11280/2018 a/w WP/11281/2018 a/w WP/13364/2018 a/w

WP/12198/2017 a/w WP/12211/2017 a/w WP/12202/2017 a/w WP/12204/2017 a/w WP/4019/2023, WP/12213/2017 a/w

WP/12205/2017 a/w WP/12398/2017 a/w WP/12421/2017 a/w WP/12399/2017 a/w WP/12400/2017 a/w WP/12677/2017 a/w

WP/12693/2017 a/w WP/12678/2017 a/w WP/12679/2017 a/w WP/12680/2017 a/w WP/12681/2017, a/w WP/12682/2017 a/w

WP/12936/2017 a/w WP/12934/2017 a/w WP/2907/2020 a/w WP/13105/2017 a/w WP/13107/2017 a/w WP/13108/2017 a/w

WP/13230/2017 a/w WP/13231/2017 a/w WP/3113/2020 a/w WP/13732/2017 a/w WP/13721/2017 a/w WP/13729/2017 a/w

WP/13730/2017 a/w WP/13731/2017 a/w WP/13906/2017 a/w WP/13908/2017 a/w WP/14047/2017 a/w WP/14055/2017 a/w

WP/14056/2017 a/w WP/14057/2017 a/w WP/433/2018 a/w WP/432/2018 a/w WP/1591/2019 a/w WP/14601/2018.

Smt. S.D. Vyas, 'B' Panel Counsel for State

Mr Advait Sethna for Resp UOI in WP/12679/2017.

|                |                                        |
|----------------|----------------------------------------|
| CORAM:         | G. S. KULKARNI &<br>JITENDRA JAIN, JJ. |
| RESERVED ON:   | 4 August, 2023                         |
| PRONOUNCED ON: | 9 August, 2023                         |

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### JUDGMENT (Per G.S. Kulkarni, J.)

1. This is a batch of petitions in which a common challenge has been raised, they are hence being disposed of by this common judgment.
2. The petitioners essentially have prayed for reliefs that Rule 19 of the Bombay Molasses Rules, 1955 (for short “**1955 Rules**”) and the circulars/notifications issued therein be declared to be ultra vires and unconstitutional. There is a further prayer to assail notification dated 1 November, 2017 issued by the State Government, which is titled as Bombay Mollasses (Amendment) Rules, 2017<sup>1\*</sup>, by which Rule 19 has been amended in regard to imposition of a levy of Rs.500/- per metric ton for issuance of the permit under Rule 18 for a person desiring to transport molasses.
3. The challenge as mounted by the petitioners emerges from the implementation and actions being resorted by the respondents-State under the 1955 Rules. These are rules which are framed by the State Government in exercise of the powers conferred by Section 143 of the Bombay Prohibition Act, 1949 and in supercession of the erstwhile Bombay Molasses Rules, 1947.

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**1** \*subsequently amended to Re.1/- per metric ton by notification dated 19 June, 2020

The rules defines “Factory” to mean a place where sugar or gur is manufactured [Rule 2(1)(b)]. It defines “Licensed premises” to mean premises in respect of which a license is granted under the said rules [Rule 2(1)(d)]. The term “Licensee” is defined under Rule 2(1)(e) to mean a person holding a license in Form M-I, M-II or M-III. The term “Producer of Molasses” is defined under Rule 2(1)(f) to mean a person who is in charge of a factory where molasses is produced in the process of manufacture of sugar or gur. Rule 3 provides for “Possession and sale of molasses” and stipulates that any person who is a producer of molasses and desires to possess and sell molasses shall make an application to the Collector for a licence in that behalf. Rule 3-A provides for “Renewal of License”. Rule 4 provides for license to be issued to a person, other than a producer of molasses, who desires to possess and use molasses. Rule 11 provides that no person shall sell molasses unless he is holding a license in Form M-I or M-III. Rule 12 provides for Import of molasses. Rule 14 provides for Export of molasses and for obtaining a license for the same. Rule 18 is a rule pertaining to transport of molasses and Rule 19, being the relevant rule, provides for the procedure for grant of license and for payment of fees. It is necessary to note Rules 18 and 19, as the entire controversy revolves around these provisions, which reads thus:

“18. Transport –

Any person desiring to transport molasses, shall make an application to the Collector or any other authorised officer under sub-section (3) of

section 61 of the Act for a permit in that behalf. The application shall contain the following particulars, namely :-

1. Name and address of the applicant;
2. Kind of the licence held in respect of molasses by the applicant and its number and date;
3. Quantity of molasses permitted for possession at any one time under the above licence (in quintals);
4. Balance of molasses on hand on the date of application (in quintals);
5. Quantity of molasses to be transported in (in quintals);
6. (a) Place from which molasses is to be transported;  
(b) Place to which molasses is to be transported;
7. Name of the person authorised to transport molasses;
8. Name and address of the person from whom molasses will be obtained;
9. Route (state also the place from and to which transport of molasses will be by road);
10. Period for which the permit is required.

19.(1) On receipt of an application under Rule 18, the Collector or the authorised officer may make such inquiries as he deems necessary and if he is satisfied that there is no objection to grant the permit applied for, he may grant a permit in Form M-VI on payment of a fee at the rate of rupee one metric ton of molasses to be transported).

(2) The permit shall be in four parts and shall be dealt with as under :-

Part I shall be kept on the record in the office of the Collector granting the permit.

Part II shall be kept by the person supplying molasses.

Part III shall be handed over to the applicant for sending with the consignment and for record thereafter with his accounts.

Part IV shall be forwarded to the Prohibition and Excise Officer of the place to which molasses are to be transported.”

4. Thus, Rule 19(1) provides that on receipt of an application under Rule 18, the Collector or the authorised officer may make such inquiries as he deems necessary, and if he is satisfied that there is no objection to grant the permit applied for, he may grant a permit in Form M-VI on payment of a fee at the rate of rupee one metric ton of molasses to be transported.

5. At this stage, it needs to be noted that large number of Writ Petitions were filed some time in the year 2001 challenging the legality and validity of Rule 19 of the 1955 Rules. These petitions were filed by producers, manufacturers, users, sellers, purchasers etc. of molasses/rectified spirit/extra neutral alcohol/silent spirit/denatured spirit and by persons who hold various licences for production/manufacture/possession/use /storage/sale/purchase etc. of molasses. Some of the petitioners in the said batch of petitions were owners of sugar factories/distilleries and produce/manufacture molasses/rectified spirit/extra neutral alcohol/silent spirit/denatured spirit. Some of the petitioners were “captive users”, in whose case there were hardly any element of transport of such molasses/materials falling under the 1955 Rules, and in case of these persons who fell under the category of captive users, the Division Bench of this Court in the case of **VAM Organic Chemicals Ltd. vs. State of Maharashtra & Ors.**<sup>2</sup> had allowed the petitions and had set aside the imposition of transportation fees, observing that the rectified spirit/industrial alcohol produced in the distillery is first denatured as per the method approved by the excise authorities and denatured alcohol which is unfit for human consumption can be used only for industrial purpose to produce chemicals such as acetic acid, acetic anhydride, vinyl acetate etc. and is carried through “closed and sealed pipes”, directly to its main chemical plants for manufacture

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**2** Writ Petition No. 2275 of 2000

of chemicals, which ensured that the spirit was manufactured in the distillery cannot be diverted at all. The Court also agreed with the petitioner that the State Government has no legislative competence to regulate denatured spirit which was totally unfit for human consumption. The decision of the Division Bench in *M/s. VAM Organics Chemicals Ltd. (supra)* was carried in appeal by the State Government before the Supreme in the proceedings of Civil Appeal Nos. 7126 of 2001. The Supreme Court dismissed the State Government's appeal by order dated 13 March, 2008.

6. On the backdrop of the decision of Division Bench in *VAM Organic Chemicals Ltd. (supra)*, the Division Bench had taken up adjudication of the said batch of petitions in the proceedings of **Sahakar Maharashi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd., Solapur vs. State of Maharashtra & Ors.**<sup>3</sup>, on which the Division Bench of this Court rendered a decision dated 6 May, 2011. In such decision, the Division Bench considered not only the cases falling under Rule 19 in respect of captive users but also a bunch of petitions which fell under the category of non-captive users. The Division Bench considering the decision in *M/s. Vam Organic Chemicals Ltd. (supra)*, decision of Supreme Court in **Synthetics & Chemicals Ltd. vs. State of U.P.**<sup>4</sup>, decision in **Bihar Distillery & Anr. vs. Union of India & Ors.**<sup>5</sup> and several other

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**3** 2011 (3) ALL MR 852

**4** (1990) 1 SCC 109

**5** 1997(2) SCC 727

decisions, observed that the Union has exclusive power to legislate and impose taxes in respect of all non-potable alcohols, namely, molasses/rectified spirit/extra neutral alcohol/silent spirit/denatured spirit etc. and the State Government has exclusive power to legislate and impose taxes in respect of potable alcohol viz., country liquor, Indian made Foreign Liquor (IMFL) etc. It was observed that insofar as the power of the State Government to regulate molasses/rectified spirit/extra neutral alcohol/silent spirit/denatured spirit is concerned, the position was that the State's power was limited to (i) the regulation of molasses/rectified spirit/extra neutral alcohol/silent spirit/denatured spirit etc. for the limited purpose of preventing its use as alcoholic liquor for human consumption, and in regard to (ii) the charging of fee based on quid pro quo for the services rendered. Applying the test of quid pro quo, the Division Bench held that as the State Government was already recovering supervision charges for the escorts comprising constabulary staff of the excise department en route transport of the molasses/rectified spirit/extra neutral alcohol/silent spirit/denatured spirit, it did not find any further and/or additional service, 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. The Court was thus of the view that a transport fee imposed by the State Government under Rule 19, even in the case of the petitioners, who are non-

captive users, does not commensurate to the services rendered and the imposition of transport fee on the non-captive cannot be sustained and was required to be set aside. The relevant observations of the Division Bench are required to be noted, which reads thus:

*“31. From an analysis of the aforementioned decisions therefore, the following position can now be said to have been well settled - that the Union has exclusive power to legislate and impose taxes in respect of all non-potable alcohols viz: molasses/rectified spirit/extra neutral alcohol/silent spirit/ denatured spirit, etc. and the State Government has exclusive power to legislate and impose taxes in' respect of potable alcohol viz: Country Liquor, Indian Made For^eign Liquor (IMFL), etc. Insofar as the power of the State Governnrjent to regulate molasses/rectified spirit/extra neutral alcohol/silent ^pirit/denatured spirit is concerned, the following is the position - the State's power is limited to (i) the regulation of molasses/rectified spirit/extra neutral alcohol/silent spirit/ denatured spirit etc. for the limited purpose of preventing its use as alcoholic liquor for human consumption, and (ii) the charging of fee based on quid pro quo for the services rendered.*

*46. It is pertinent to note that the assertions made on behalf of the State Government in their Affidavit in Reply filed in the case of M/s. Vam Organic Chemical Ltd. (supra) (which is also annexed to the counter affidavit filed in the present W.P. No.2922 of 2001), that there were several other services rendered including administrative services, not only by the excise authorities, but also other officials of the State Government and that services rendered had a correlation with the transport fee charged was not accepted by the Division Bench of this Court. The Division Bench held that there was absolutely no material to indicate that any services rendered by the State Government in the case of the petitioner therein who was a captive user. In the present petitions also the same assertions have been made in the counter affidavit of the state Government that there were several other services rendered not only by the excise authorities but also other officials of the State Government and that the services rendered had a co-relation with the transport fee charged. We are afraid that once that argument has been rejected by the Division Bench of this Court in the case of M/s. Vam Organic Chemicals Ltd., which was affirmed by the Apex Court, it is really not open for the State Government to raise the same assertions again in the present petitions. It was incumbent on the State Government to point out what were the additional expenses in case of non-captive users, incurred by the State Government in connection with the services rendered en route transport when the molasses/rectified spirit/extra neutral if alcohol/silent spirit/denatured spirit was being transported from the origin to the destination, which the State Government has not done. As stated earlier, it*

is an admitted position that en route transport also the State Government deploys excise staff who accompany the tanker/vehicle in which the molasses/rectified spirit/extra neutral alcohol/silent spirit/denatured spirit is being transported so as to ensure that the same is not diverted for potable purposes. It is also an admitted position that the State Government is also recovering supervision charges as contemplated under Section 58A of the Bombay Prohibition Act, 1949, of such excise staff who accompany the tanker/vehicle so as to supervise the transport of the molasses/rectified spirit/extra neutral alcohol/silent spirit. Considering the above, we are unable to persuade ourselves to accept the contention on behalf of the State Government that over and above the supervision charges which includes the cost for the excise staff who accompany the tanker/vehicle en route transport, which the petitioners are already paying, any further expenses are being incurred by the State Government in that behalf. In any event no material in that behalf has been placed on record. Prima facie, we think this would in a sense amount to double levy of fee in respect of the same services rendered in connection with the transport. In the circumstances, therefore, we are of the view that, inasmuch as the State Government is already recovering supervision charges for the escorts comprising constabulary staff of the excise department en route transport of the molasses/rectified spirit/extra neutral alcohol/silent spirit/denatured spirit, we do not find any further and/or additional service 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.

47. In light of the aforesaid discussion, in our view, the transport fee imposed by the State Government, even in the case of petitioners who are non-captive users, does not commensurate to the services rendered and the imposition of transport fee on the petitioners who are non-captive cannot be sustained and required to be set aside and accordingly set aside. It may be mentioned here that we have, in paragraph 21 hereinabove, already set aside the imposition of transport fee in case of petitioners who are captive users.

48. In the result, the petitions succeed. Rule made absolute in all the petitions in the aforesaid terms. No order as to costs.

(emphasis supplied)

7. The case of the petitioners is that despite the authoritative pronouncement of the Division Bench declaring that the State Government would not have any authority to charge fees under Rule 19 for the captive and non-captive users as held in *Sahakar Maharashi Shankarrao Mohite Patil*

*Sahakari Sakhar Karkhana's case* (supra), the State Government issued a impugned notification dated 1 November, 2017 being titled as 'Bombay Molasses Amendment Rules, 2017' by which the 1955 Rules *inter alia* in regard to Rule 19 came to be amended so as to prescribe a fee of Rs.500/- per metric ton replacing Re. 1/- per metric ton. The said notification is required to be noted, which reads thus:

**NOTIFICATION**

Home Department,  
Mantralaya, Madam Cama Marg,  
Hutatma Rajguru Chowk,  
Mumbai-400 032.  
Dated : 1<sup>st</sup> November 2017

No.MPL-0717 C.R.214(2)/EXC-3. Whereas, the Government of Maharashtra considers that the following rule further to amend the Bombay Molasses Rules, 1955, shall be brought in to force at once, and therefore, the rules shall be made without previous publication as provided by the proviso to sub-section (3) of section 143 of the Maharashtra Prohibition Act, 1949 (XXV of 1949).

Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (2) of section 143 of the Maharashtra Prohibition Act, 1949 (XXV to 1949) and of all other powers enabling it in this behalf the Government of Maharashtra hereby makes the following rules, as follows, namely :-

- 1) These rule may be called the Bombay Molasses (Amendment) Rules, 2017.
- 2) In rule 13 of the Bombay Molasses Rules, 1955 (hereinafter referred to as "the principal rules"), in sub-rule (1) for the word "of rupees fifty" the words "of rupees five thousand" shall be substituted.
- 3) In rule 15 of the principal Rules, in sub-rule (1) for the words "of rupees fifty" of words "of rupees five thousand" shall be substituted.
- 4) In rule of 19 of the principal Rules, in sub-rule (1).
  - (a) for the word "at the rate of rupees one per metric ton molasses to be transported" the words "at the rate of rupees five hundred per metric ton of molasses to be transported" shall be substituted.
  - (b) After sub rule (1), the following proviso shall be added,

namely :-

**“Provided that on import and export of molasses an additional fee of rupees five hundred per metric ton will be applicable as transport fee for M-VI Permit”.**

By order and in the name of the  
Government of Maharashtra

Sd/-

(P. H. Wagde)

Joint Secretary to Government”

(emphasis supplied)

8. It is on the above premise, being aggrieved by the aforesaid notification, these petitions came to be filed praying for the following substantive reliefs:

“(a) This Hon’ble Court be pleased to issue writ in the nature of mandamus and/or writ of certiorari or writ in the nature of quo qarranto or any appropriate writ or orders calling for papers and proceedings relating to recovery of fees for issue of transport pass under Rule 19 of the Bombay Molasses Rules 1955 and after scrutinizing the validity and legality thereof be pleased to hold and declare the said Rule and circulars/notifications issued thereunder as ultra vires and unconstitutional and the said Rule be quashed and struck down;

(b) This Hon’ble Court be pleased to issue writ in the nature of mandamus and/or writ of certiorari or writ in the nature of quo warranto or any appropriate writ or orders calling for papers and proceedings relating to the notification dated 1.11.2017 issued by the Respondent No.1 termed as Bombay Mollasses (Amendment ) Rules 2017 and after scrutinizing the validity and legality of thereof be pleased to hold and declare the said notification to the extent of amending Rule 19 as ultra vires and unconstitutional and the said Rule to that extent be quashed and struck down;

(c) pending the hearing final disposal of the petition, the Respondents, their officers, employees or anybody claiming through them, be restrained from recovering any fee for issue of transport pass under Rule 19 of the Bombay Molasses Rules, 1955;

(d) pending the hearing final disposal of the petition this Hon’ble Court be pleased to stay the execution, operation and effect of the notification dated 1.11.2017 issued by the Respondent no. 1 termed as Bombay Mollasses (Amendment) Rules 2017 and be pleased to restrain the Respondents, their officers, employees or anybody claiming through them from recovering any fee in pursuance thereof.”

9. However, peculiarly during the pendency of these petitions, the State Government issued a further notification dated 19 June, 2020 whereby Rule 19 again came to be amended to restore the levy of fees of Re. 1/- per metric ton by revoking the levy of Rs.500/- as undertaken by amendment notification dated 1 November, 2017 as noted hereinabove. The notification dated 19 June, 2020 reads thus:

**HOME DEPARTMENT**

Madam Cama Marg, Hutatma Rajguru Chowk, Mantralaya, Mumbai 400 032  
dated the 19th June 2020.

**NOTIFICATION**

**MAHARASHTRA PROHIBITION ACT.**

No. MPL-0717/C.R. 214 (Part-1)/Exc-3 – Whereas, the Government of Maharashtra considers that the following rules further to amend the Bombay Molasses Rules, 1955 shall be brought into force at once, and therefore, the rules shall be made without previous publication as provided by the proviso to sub-section(3) of section 143 of the Maharashtra Prohibition Act (XXV of 1949);

Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (2) of section 143 of the Maharashtra Prohibition Act (XXV of 1949) and of other powers enabling it in this behalf, the Government of Maharashtra hereby, makes the following rules, as follows, namely -

1. These rules may be called the Bombay Molasses (Amendment) Rules, 2020.
2. In rule 13 of the Bombay Molasses Rules, 1955 (hereinafter referred to as "the principal Rules"}, in sub-rule (1), for the words "of rupees five thousand" the words "of rupees fifty" shall be substituted.
3. In rule 16 of the principal Rules, in sub-rule (1), for the words "of rupees five thousand" the words "of rupees fifty" shall be substituted.
4. In rule 19 of the principal Rules, in sub-rule (1), —

(a) for the words "at the rate of rupees five hundred per metric ton of molassas to be transported" the words "at the rate of rupees one per metric ton of molasses to be transported" shall be substituted;

b) proviso shall be deleted.

By order and in the name of Governor of Maharashtra  
VALSA NAIR SINGH  
Principal Secretary to Government"

10. In view of the said notification being issued, the petitioners contended that the State Government would not have jurisdiction and authority to levy fees even of Re. 1/- per metric ton and prayed for amendment of the petitions so as to assail the notification dated 19 June, 2020. In such context, the petitioners contend that the Division Bench of this Court in *M/s. VAM Organics Chemicals Ltd.* (supra) and *Sahakar Maharashi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd.* (supra) had categorically held that the State Government had no authority to levy such fees under Rule 19 in respect of captive and non-captive users and hence it was patently illegal for the State Government to issue the said notification dated 19 June, 2020 and continue to insist that the State Government is empowered to charge a fees of Re. 1/- per metric ton of transportation of molasses. Thus, the additional prayer of the petitioners is to assail the notification dated 19 June, 2020 came to be incorporated that the said notification be quashed and set aside. The additional prayers as incorporated by the petitioners read thus:

“(b1) This Hon’ble Court be pleased to issue writ in the nature of mandamus and/or writ of certiorari or writ in the nature of quo warranto or any appropriate writ or orders calling for papers and proceedings relating to the notification dated 16.6.2020 issued by the Respondent no. 1 termed as Bombay Mollasses (Amendment ) Rules 2020 and after scrutinizing the validity and legality of thereof be pleased to hold and declare the said notification to the extent of amending Rule 19 as ultra vires and unconstitutional and the said Rule to that extent be quashed and struck down;

(b2) pending the hearing final disposal of the petition this Hon’ble Court be pleased to stay the execution, operation and effect of the notification dated 19.6.2020 issued by the Respondent no. 1 termed as Bombay Mollasses (Amendment) Rules 2020 and be pleased to restrain the Respondents, their officers, employees or anybody claiming through them from recovering any fee in pursuance thereof.”

11. On the above backdrop, the proceedings are before us today.
12. On behalf of the State Government, an affidavit-in-reply has been filed in lead Writ Petition No. 13720 of 2017 justifying the levy of such fees. The affidavit sets out the historical conspectus. However, what is contended is that the impugned levy of Re. 1/- per metric ton is not excessive and hence it meets the requirement of quid pro quo. Paragraph 20 of the affidavit justifies the levy of said fee on the ground that apart from issuance of transport permit, the State Excise department also regulates activities relating to potable liquors, however, it is not possible to state as to how much of the expenditure is incurred in regulation of the trade in potable alcohol. It is contended that out of total quantity of rectified spirit produced in the State, about 65% is allotted for non-potable purpose and remaining 35% is allotted for potable purpose and hence substantial part of the duties of the State Excise department is for

regulation of activities in respect of industrial alcohol and molasses. It is also contended that expenditure is also incurred on the pay and other expenses of authorities like the Collector, officers of the Industries department, Food and Drugs Department, Animal Husbandry department, police department and the Director of Forensic Science Laboratories and their staff who also render services in the regulation and expenditure incurred in this regard being not included in the budget of the State Excise department. The relevant extract of the affidavit is required to be noted, which reads thus:

“20. It is submitted that, the impugned levy of rupee one per metric ton is not excessive and it meets the requirement of quid pro quo as is being submitted below.

(I) Fee of rupee one per ton of molasses is levied under Rule 19 of the 1955 Rules for issuance of Transport Permit in Form; M- VI. Hereto annexed and marked as Annexure H is a copy of Form M- VI permit for transport of Molasses From the sugar factory to the purchaser's place.

(II) Apart from issuance of Transport Permit, the State Excise department also regulates activities relating to potable liquors, however It is not possible to state as to how much of the expenditure is incurred in the regulations of trade in potable alcohol. For example, a Sub-Inspector posted at a Taluka supervises the activities in the potable liquor shops as well as activities of users of and dealers in industrial alcohol, molasses in his area. He visits for inspection at potable liquor shops as well as visits for inspection at places of business of say those manufacturing chemicals or preparations like French polish from denatured spirit, wholesalers, retailers and also visits doctors, dispensaries, hospitals, schools and colleges for assessing requirements of industrial alcohol, signs requisitions, grants transport passes and carries out other various duties mentioned above. He also visits sugar factories for inspection/verification which do not have a distillery.

(III) It is submitted that, it is not possible to demonstrate as to how much of the expenditure is incurred on the establishment of the Sub-Inspector in the regulation of trade in industrial alcohol and how much in the regulation of trade in potable alcohol. Same is the position in

respect of services rendered by a higher officer and the employees of the state Excise Department.

(IV) It is submitted that out of total quantity of rectified spirit produced in the State, about 65% is allotted for non-potable purpose and remaining 35% is allotted for potable purpose. Thus, it is seen that substantial part of the duties of the State Excise department is for regulation of activities in respect of industrial alcohol and molasses.

(V) It is submitted that expenditure is also incurred on the pay and other expenses of authorities like the Collector, officers of the Industries department, Food and Drugs department, Animal Husbandry department, police department and the Director of Forensic Science Laboratories etc. and their staff who also render services in the regulation and expenditure incurred in this regard is not included in the budget of the State Excise department, however, the fact remains that services are definitely rendered to the licenses by these officers and their staff and some expenses are therefore incurred by the State. It is extremely difficult or impossible to determine as to what amounts are spent on the expenses incurred on the aforesaid personnel. It is therefore submitted that the contention of the petitioners that the levy is excessive as there is no quid pro quo, is without any merit.”

13. The affidavit also refers to two decisions of the Supreme Court, firstly in the case of **State of Tamil Nadu vs. TVL, South Indian Sugar Mills Association & Ors.**<sup>6</sup> and in **Kalyan Chemicals vs. State of Andhra Pradesh & Ors.**<sup>7</sup> to submit that the levy of fee of Re. 1/- per metric ton would be justified.

14. Learned counsel for the petitioners in assailing Rule 19 and the impugned notifications would contend that the State Government would not have any authority whatsoever to levy any fee qua the activities of the petitioners, as the same has been declared to be illegal by the Division Bench of this Court in the case of M/s. VAM Organics Chemicals Ltd. (supra) as also in

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**6** 2015 AIR SCW 5011

**7** (2015) 13 SCC 761

Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra) . It is submitted that despite this Court having held that such levy as illegal in case of M/s. VAM Organics Chemicals Ltd. (supra) and Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra), the State Government has persisted in imposing such levy under Rule 19 of the 1955 Rules. It is submitted that in fact the Division Bench in Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra) has clearly observed in paragraph 46 that there was absolutely no material to indicate that any services were rendered by the State Government in the case of captive user and a similar contention of service being rendered by other departments, was raised in such case which had no nexus and/or any relation whatever to the transport fees as charged. It is contended that the Division Bench noted that in M/s. VAM Organics Chemicals Ltd. (supra), once the argument of the State Government on such counts was rejected by the Division Bench and which was also affirmed by the Apex Court, it was not open for the State Government to raise the same assertions. It is the petitioners' contention that despite such observations, the State Government has persisted on such levy as challenged in the present proceedings. It is their submission that the issue stands squarely covered by the decision of the Division bench in Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra) and

accordingly, the petitions are required to be allowed in terms of the said decision.

15. On the other hand, Ms. Vyas, learned AGP would justify the levy referring to the reply affidavit. She would primarily submit that the amount of Re. 1/- per metric ton being charged under Rule 19 as transport fee is a reasonable amount and hence, considering the decision of the Supreme Court in *Kalyan Chemicals (supra)*, the doctrine of quid pro quo ought not to be applied.

16. We have heard learned counsel for the parties. We have also perused the record with the assistance of learned counsel for the parties.

17. At the outset, we may observe that this is not the first time the controversy under Rule 19 has reached this Court. The first occasion when the controversy reached this Court was in the proceedings of M/s. VAM Organics Chemicals Ltd. (supra), which was at the behest of captive users. In the said decision, the Division Bench of this Court categorically held that it was not open for the State Government to levy any fee under Rule 19, as there were no services rendered by the State Government in the case of said petitioner, who was a captive user. We have noted in detail as to what was held by the Division Bench in interpreting Rule 19 in M/s. VAM Organics Chemicals Ltd. (supra).

The decision of this Court in M/s. VAM Organics Chemicals Ltd. was affirmed by the Supreme Court in the State's appeal being dismissed.

18. The second occasion when the controversy again reached this Court was in the case of batch of petitions in Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra), wherein not only the issue of captive users was again required to be revisited, as the State Government, despite the decision of the Division Bench in M/s. VAM Organics Chemicals Ltd. and as confirmed by the Supreme Court, insisted for levy of Rs.500/- per metric ton under Rule 19 by notification dated 1 November, 2017, which has given rise to the present batch of petitions, which came to be confined to Re. 1/- per metric ton by the subsequent notification dated 19 June, 2020 as impugned.

19. Thus the insistence of the State Government, however was not restricted merely to levy of Re. 1/- per metric ton as it stood, when two Division Benches of this Court adjudicated against the State Government in M/s. VAM Organics Chemicals Ltd. (supra) and Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra), but during the pendency of the present petitions, by further notification dated 1 November, 2017, the State Government amended Rule 19 to substitute the fee of Re. 1/- per metric ton by Rs.500/- per metric ton.

20. In our opinion, considering the decision of the Division Bench of this Court in these two decisions, namely, M/s. VAM Organics Chemicals Ltd. (supra) and Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra), it was not permissible for the State Government to issue notification dated 1 November, 2017 to enhance the levy of fee from Re.1/- per metric ton to Rs.500/- per metric ton. This more particularly that even the levy of Rs.1/- per metric ton was found to be illegal in the said decisions of this Court.

21. It is quite surprising that when the decision in M/s. VAM Organics Chemicals Ltd. (supra) was affirmed by the Supreme Court in the State Government's appeal being dismissed as also there being no stay on the subsequent decision in Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra), it was highly unreasonable for the State Government to issue notification dated 1 November, 2017.

22. It, however, appears that the State Government in its wisdom considered it appropriate to revoke the notification dated 1 November, 2017 by subsequent notification dated 19 June, 2020 by deleting levy at Rs.500/- per metric ton as inserted by amendment to Rule 19 by notification dated 1 November, 2017 and restore the same to Re. 1/- per metric ton, which is also

subject matter of challenge before us by the amendment carried out to the petitions.

23. In such context, we may observe that there is much substance in the contentions of the petitioners that even the subsequent notification dated 19 June, 2020 would not sustain the test of the said notification and/or levy of the fees prescribed by it being valid in law, considering the decisions of this Court in M/s. VAM Organics Chemicals Ltd. (supra) and Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra), which are valid and subsisting on the State Government. We are of the clear opinion that considering the observations of this Court in the said decisions, it was not permissible for the State Government to levy fee of even Re. 1/- per metric ton, when *inter alia* in respect of supervision charges essential for maintaining the regulatory control under the Bombay Prohibition Act, already statutory fees are being charged and paid by the licencees as observed by the Division Bench in Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra). Thus, there was no warrant whatsoever for charging transport fee at Re. 1/- per metric ton for the captive and non-captive users in the absence of Rule 19 itself being not attracted in the case of the petitioners.

24. We are in fact quite surprised when the State Government has attempted to justify such levy on the grounds which are totally alien and not relevant in

the context of 1955 Rules. Similar was the contention and argument before the Division Bench even in the case of Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra), when in the counter affidavit filed therein, the State Government had taken a stand that there were several other services rendered not only by the excise authorities but also other officials of the State Government and that the services rendered in that regard were related to the transport fee as being charged. Thus the stand of the State Government in the present proceedings is identical to what was urged in the case of Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra), and which was rejected by the Division Bench to have any relevance in the context of Rule 19. We are thus not inclined to accept the contentions as urged by the State Government in the reply affidavit and as argued by Ms. Vyas.

25. We are thus of the clear opinion that the present petitions are squarely covered by two decisions rendered by the Division Bench of this Court in the case of M/s. VAM Organics Chemicals Ltd. (supra) and Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra). Thus, the State Government would not have any authority to levy transport fees in respect of captive and non-captive users, being the categories in which the present petitions fall to impose any levy under Rule 19 of the 1955 Rules.

26. Insofar as reliance placed by Ms. Vyas on the decision of the Supreme Court in the case of State of Tamil Nadu vs. TVL, South Indian Sugar Mills Association & Ors. (supra) is concerned, in our opinion, the same would not assist the respondent-State inasmuch as in the said case, the Court was concerned with administrative fees being demanded at Re.1/- per bulk litre of industrial alcohol. In such case, the respondents had earlier unsuccessfully imposed fee of 50 paise per bulk litre of industrial alcohol, when the challenge was primarily predicated on the legislative competence of the State of Tamil Nadu to make that demand. The challenge was to Rule 5-A of the Tamil Nadu Distillery Rules introduced by notification dated 4 June, 1990 and the amendment to the said Rule dated 12 April, 2000. The learned Single Judge of the Madras High Court following the decision of the Seven-Judge Bench of the Supreme Court in **Synthetics and Chemicals Ltd.** (supra) had concluded the conundrum. The learned Single Judge came to the conclusion that the subject impost was in pith and substance, an endeavour to raise revenues for the States. It was observed that the principle of quid pro quo governs the quantification of the service rendered, but not necessarily with mathematical exactitude and that it was necessary that a reasonable relationship between the collection and the services rendered must be evident. The petition was accordingly was partly allowed by the learned Single Judge making it legal for the State to impose and collect only 50 paise per bulk litre. The decision of the

learned Single Judge was carried in appeal before the Division Bench. The Division Bench, however, did not approve of the State Government collecting such amounts even at the rate of 50 paise per bulk litre, as it was of the opinion that the collection by the State Government by way of administrative service fee recovered even at the rate of 50 paise per bulk litre corresponded to approximately 60% of the total expenditure of the Excise Department and accordingly, it was held that such collection was excessive. It is in such context, the Supreme Court confirmed the judgment of the Division Bench holding that so long as expenses were incurred by the State Government in ensuring that industrial alcohol is not used as potable alcohol, recovery thereof shall be permissible. The Supreme Court observed that there was no justification for the State or its Excise Department to collect charges at the rate of Re.1/- after it had been quashed by the learned Single Judge. Thus, if these are the facts, we are surprised as to how these decisions would assist the State Government in the present case. In fact the judgment supports the case of the petitioners and totally militates against the stand of the State Government supporting the levy.

27. Insofar as the decision of the Supreme Court in **Kalyan Chemicals** (supra) is concerned, the decision would not support the State Government inasmuch as the Supreme Court has reiterated the law as laid down and discussed in the case of **TVL, South Indian Sugar Mills Association** (supra).

28. We may observe that in the present case there is no material whatsoever as brought on record by the State Government to justify that the levy under Rule 19 under impugned notifications dated 1 November, 2017 and 19 June, 2020 is for the purpose of ensuring that the materials falling within the purview of 1955 Rules and subject matter of levy on the principle of quid pro quo as accepted in the case of M/s. VAM Organics Chemicals Ltd. (supra), Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra) can in any manner be justified. Any levy which fails the test as recognized in these decisions would be required to be held to be illegal. We, accordingly, allow these petitions in terms of following order:

### **ORDER**

(i) It is held that the challenge as raised by the petitioners in the present proceedings is squarely covered by the decision of the Division Bench of this Court in M/s. VAM Organics Chemicals Ltd. (supra) as confirmed by the Supreme Court in the proceedings of Appeal No. 7126 of 2001 and in the decision of the Division Bench of this Court in Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. (supra).

(ii) The respondent/State has no authority in law to demand and recover fee from the petitioners under notifications dated 1 November, 2017 and 19 June, 2020.

(iii) If any amounts are collected under such notifications, the same be refunded to the petitioners within a period of ten weeks from today, for which the petitioners are permitted to make refund applications.

29. The petitions stands allowed in the aforesaid terms. No costs.

(JITENDRA JAIN, J.)

(G. S. KULKARNI , J.)