



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO. 838 of 2021

M/s. Komal Stone Crusher
(Komal Construction Company)
The Eligible Industrial Unit under the package
Scheme of Incentives-2007, situated at Survey No.7/2,
Mouza-Shripur, Tah.Arni, District Yavatmal,
Through its Proprietor-Shri Pawan s/o Nandlalji Panpaliya,
Aged about Major, Occ. Business,
Office at Yavatmal, District Yavatmal.

..PETITIONER

Versus

1. State of Maharashtra,
Through its Secretary,
Department of Industry, Energy and Labour,
Mantralaya, Mumbai-400 032. **.. RESPONDENTS**
2. The Director of Industry,
Opposite Mantralaya, Kolaba,
Mumbai.
3. The Joint Director of Industry,
Regional Office of Industries,
Amravati.
4. The General Manager,
District Industrial Centre,
Yavatmal, Tahsil and District Yavatmal.

Shri A. B. Moon, Advocate for petitioner.
Ms. N. P. Mehta, Assistant Government Pleader for respondents.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 7th SEPTEMBER, 2023

ORAL JUDGMENT (PER A.S.CHANDURKAR, J.)

Rule. Ms N. P. Mehta, learned Assistant Government Pleader
waives service of notice for the respondents.

2. The petitioner sought refund of royalty claimed under the
Package Scheme of Incentives, 2007. By referring the Circular dated

17.06.2011, the claim was rejected by the District Industries Centre on the ground that the claim was not submitted within the specified time. The period of such claim is from 2012-13 to 2017-18, annually. The learned counsel for the petitioner submits that in view of the judgment dated 18.08.2023 passed in Writ Petition No. 19 of 2018 (*M/s. Shri Balaji Buildicon vs. The State of Maharashtra and ors.*) with connected writ petitions, the letter dated 29.11.2019 refusing to refund the amount of royalty to the petitioner is liable to be quashed. We have accordingly heard the learned counsel for the parties in the aforesaid backdrop.

3. Perusal of the judgment in *M/s. Shri Balaji Buildicon* (supra) indicates that the Circular dated 17.06.2011 which is the basis for rejection of the claim for refund has been held to apply to major minerals. In the present case, the petitioner is concerned with manufacture of minor minerals. In the aforesaid decision, it has been held that as per Clause 5.5 of the Government Resolution dated 30.03.2007 there was no time limit fixed for seeking refund and the time prescribed under the Government Circular dated 17.06.2011 was applicable only to units concerned with major minerals. We therefore find that the issue stands decided in favour of the petitioners.

4. Hence, for reasons recorded in Writ Petition No.19 of 2018, dated 18.08.2023 in the case of *M/s. Shri Balaji Buildicon*, with

connected writ petitions, the respondents are directed to refund the royalty that was paid by the petitioner in accordance with Clause 5.5 of the Government Resolution dated 30.03.2007, if the petitioner is otherwise found entitled. The claim shall not be rejected on the ground that the application was made beyond the period of one year.

5. Rule is made absolute in aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.