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

WRIT PETITION NO. 7339 of 2019

M/s. Arti Stone Crusher. ..PETITIONER
Situated at Gut No. 521, Mouje Pasoda,
Gram Panchayat Bonda,
Tahsil and District Amravati, through its
Proprietor-Shri Ashok s/o Gokulprasad Baseria,
Office at Wall Cut Compound, Mahalaxmi Complex,
Amravati, Tahsil and District Amravati.

Versus

1. State of Maharashtra, ..RESPONDENTS
Through its Secretary,
Department of Industry, Energy and Labour,
Mantralaya, Mumbai-400 032.

2. The Director of Industry,
Opposite Mantralaya, Kolaba,
Mumbai.

3. The Joint Director of Industry,
Regional Officer of Industries,
Amravati.

4. The General Manager,
District Industrial Centre,
Amravati, Tahsil and District Amravati.

Shri A. B. Moon, Advocate for petitioner.
Ms S.S.Jachak, Assistant Government Pleader for respondents.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.
DATE :- 23rd AUGUST, 2023

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

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

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 stone crusher unit is not entitled to claim royalty. The period of such claim is from 2009-10 to 2013-14, annually.

3. The learned counsel for the petitioner has sought to rely upon the judgment dated 18.03.2016 delivered in Writ Petition No. 137 of 2015 (*M/s. Prerna Stone Crusher vs. The Government of Maharashtra and others*) to contend that in the said writ petition under similar circumstances, the respondents were directed to refund the royalty. It is thus submitted that the letter of demand refusing to refund the amount of royalty to the petitioner is liable to the quashed.

4. Perusal of the judgment in *M/s. Prerna Stone Crusher* (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 activities dealing with minor minerals. In the aforesaid decision, it has been observed that Clause 5.5 of the Government Resolution dated 30.03.2007 dealt with royalty refund and that the said clause does not restrict refund of royalty only for major minerals. Besides, there was no time limit fixed for seeking refund and the time prescribed under the Government Resolution dated 30.03.2007 was applicable only to units concerned with major minerals. We therefore find that the issue stands decided in favour of the petitioner.

4. Hence, for reasons recorded in Writ Petition No.137 of 2015, dated 18.03.2016 in the case of *M/s. Prerna Stone Crusher* (supra), 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.

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

(MRS. VRUSHALI V. JOSHI, J.) **(A.S.CHANDURKAR, J.)**

Andurkar.