

Mangalore Chemicals And Fertilizers ... vs Union Of India & Anr on 8 October, 2020

Author: Navin Chawla

Bench: Navin Chawla

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 7653/2020

MANGALORE CHEMICALS AND FERTILIZERS LIMITED &
ANR.

..... Petitioners

Through Mr.V.Lakshmikumaran, Ms.
Charanya Lakshmikumaran,
Mr.Yogendra Aldak and Mr.Gopal
Machiraju, Advs.

versus

UNION OF INDIA & ANR.

.....

Through

Mr.Kirtiman Singh, CGSC
Mr.Waize Ali Noor, Mr.R
Anand, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA
ORDER

% 08.10.2020 This hearing has been held by video conferencing.

CM 25325/2020 (exemption) Allowed, subject to all just exceptions.

WP(C) 7653/2020

1. Issue Notice.

2. Notice is accepted by Mr. Kirtiman Singh, the learned CGSC, on behalf of the respondents.

3. The grievance of the petitioners is that the petitioners could not convert to a gas charged unit as GAIL could not complete the laying of the pipeline for supply of RLNG gas to the petitioner industry, though the petitioner have completed all requirements for running the unit through gas and has also complied with all conditions that were to be complied with as far as GAIL is concerned.

4. The petitioners are aggrieved of the Circular dated 17.06.2015, which in paragraph 3 thereon provides as under:

"3. The concession rate for these plants will be determined notionally on the basis of weighted average of the delivered cost of RLNG to the recently converted plants after deducting state taxes (VAT, Entry tax) on RLNG or the cost of production of urea from Naphtha/FO after deducting state taxes levied on Naphtha/FO consumed for urea production (VAT, Entry tax) on Naphtha/FO, whichever is lower."

5. The learned counsel for the petitioners submits that till 31.03.2020, the price of Naphtha was less than the price of gas and therefore, the lower of the two was taken for determining the subsidy entitlement of the petitioners. However, since 31.03.2020, the position has reversed and the gas price is lower than the price of Naphtha. In this manner, the petitioner is not being paid the complete subsidy that it is otherwise entitled to keeping in view the cost of production of the urea.

6. The petitioners made a representation dated 28.08.2020 to the respondents highlighting this issue. However, the respondents are yet to take a decision thereon, thereby leading to a continuous loss to the petitioners and forcing the petitioners to, in fact, stop the production since 05.10.2020.

7. The learned counsel for the petitioners has placed reliance on the order dated 11.11.2014 passed by this Court in WP(C) No.6710/2014 titled Mangalore Chemicals & Fertilizers Ltd. vs. Union of India & Anr., wherein this Court had inter alia observed as under:

"Since the price of fertilizers is for all practical purposes administered, the producing units have to depend heavily on the subsidy provided by the respondents. It would, prima facie, be unreasonable if the subsidy is limited only to manufacturers using natural gas, where admittedly natural gas is not available to the petitioner.

In the given circumstances, whilst the respondents may re- examine their policy to provide a feasible solution, the respondent must consider extending the subsidy in the interim period."

8. In view of the above, the respondents are directed to consider the representation dated 28.08.2020 of the petitioners within two weeks and pass a speaking order thereon.

9. List this petition for further consideration on 19th November, 2020.

NAVIN CHAWLA, J OCTOBER 8, 2020 RN