

# Devki Global Capital Pvt. Ltd. & Anr vs Union Of India Through: Secretary, ... on 24 January, 2022

**Author: Rajiv Shakdher**

**Bench: Rajiv Shakdher, Talwant Singh**

\$~24 to 27

\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ LPA 211/2020  
DEVKI GLOBAL CAPITAL PVT. LTD. & ANR.

..... Appel

Through: Mr Jayant Mehta, Senior Advocate  
Mr. Ashish Dholakia, Senior Advocate and  
Ms Damini Chawla, Advocate.

versus

UNION OF INDIA THROUGH: SECRETARY, MINISTRY OF  
FINANCE & ANR.

..... Res

Through: Mr Anil Soni, CGSC with Mr Sriva  
Kaushal & Mr Devesh Dubey, Advocates.

+ LPA 212/2020  
SUN ORGANIC INDUSTRIES PVT. LTD. & ANR.

..... Appe

Through: Mr Jayant Mehta, Senior Advocat  
Mr. Ashish Dholakia, Senior Advocate and  
Ms Damini Chawla, Advocate.

versus

UNION OF INDIA THROUGH: SECRETARY, MINISTRY OF  
FINANCE & ANR.

..... Re

Through: Mr Anil Soni, CGSC with Mr Sriv  
Kaushal & Mr Devesh Dubey, Advocates.

+ LPA 213/2020  
SHAMBHU MERCANTILE LTD. & ANR.

..... Appe

Through: Mr Jayant Mehta, Senior Advocat  
Mr. Ashish Dholakia, Senior Advocate and  
Ms Damini Chawla, Advocate.

versus

UNION OF INDIA THROUGH: SECRETARY, MINISTRY OF  
FINANCE & ANR.

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Through: Mr Anil Soni, CGSC with Mr Sriv  
Kaushal & Mr Devesh Dubey, Advocates.

LPA 211/2020 and connected appeals

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MOHAN CHOUDHARY  
Signing Date:25.01.2022  
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+ LPA 214/2020  
K.L. GUPTA & SONS PVT. LTD. & ANR.

.....A  
Through: Mr Jayant Mehta, Senior Advoc  
Mr. Ashish Dholakia, Senior Advocate a  
Ms Damini Chawla, Advocate.  
versus

UNION OF INDIA THROUGH: SECRETARY, MINISTRY OF  
FINANCE & ANR.

.....  
Through: Mr Ajay Digpaul, CGSC with  
Mr Kamal R Digpaul, Advocate for UOI.

CORAM:  
HON'BLE MR JUSTICE RAJIV SHAKDHER  
HON'BLE MR JUSTICE TALWANT SINGH  
ORDER

% 24.01.2022 [Court hearing convened via video-conferencing on account of COVID-19] CM APPL. 3902/2022 in LPA 211/2020 CM APPL. 3852/2022 in LPA 212/2020 CM APPL. 3854/2022 in LPA 213/2020 CM APPL. 3853/2022 in LPA 214/2020

1. The aforementioned applications have been moved by the applicants/appellants.
2. The grievance of the applicants/appellants is that even though they sought registration of their respective applications with the Turkish Authorities i.e., Turkish Grain Board [hereafter referred to as "TMO"] to enable import of poppy seeds to India, it did not happen
3. According to Mr Jayant Mehta, learned senior counsel appearing for the applicants/appellants, the applicants/appellants had followed the proper regime i.e., they waited for the country quota/cap to be fixed by India before taking steps to have their contracts registered with the TMO. LPA 211/2020 and connected appeals page 2 of 4 3.1. Furthermore, Mr Mehta has drawn our attention to the communication dated 30.10.2019, which emanated from the Turkish Embassy, Office of the Commercial Counsellor, and is addressed to the Narcotics Commissioner, Central Bureau of Narcotics [in short, "CBN"], which is, indicative of the fact that while at the relevant point in time i.e., 2019-20, Turkey intended to export 26,540 metric tonnes [in short, "MT"] of poppy seeds to India, the Government of India, had, at that point of time, pegged the quota for Turkey at 18,000 MT.
- 3.2. It is in this context that the Turkish Embassy conveyed to the Narcotics Commissioner, CBN as follows:

".....As Turkish side cannot exceed the quantity determined by India side, according to Article III, Clause III, the above mentioned contracts alongwith other contracts could not be approved by TMO.

Therefore, as soon as the Country cap is revised upwards. for additional quantity by the Indian Government, these three applications along with all other valid applications would be uploaded with CBN."

(emphasis is ours)

4. Mr Anil Soni, who appears on behalf of the respondents in LPA Nos.211-213/2020, says that the applicants/appellants would have to seek a fresh registration with TMO for the crop year 2021-22 and only, then, registration would be made by the CNB.

4.1 Mr Soni informs us that the quota for import of poppy seeds from Turkey for the crop year 2021-22 is pegged at 17,500 MT.

5. We have queried Mr Soni and sought answers from him, as to why efforts cannot be made by CNB to interface with its counterpart i.e., TMO to LPA 211/2020 and connected appeals page 3 of 4 register the export contracts of 2019-20 [in case they are not registered], so that the necessary quantities can be imported to the country, against the quota/cap fixed for the crop year 2021-22.

5.1 Mr Soni says that he will revert with instructions.

6. List the above-captioned matters before the roster bench on the date already fixed i.e., 14.02.2022.

7. In the interregnum, the quantities that the applicants/appellants seek to import in each of these matters shall be kept apart by the respondents i.e., 90 MT qua LPA No.211/2020, 144 MT qua LPA No.212/2020, 450 MT qua LPA No.213/2020 and 450 MT qua LPA No.214/2020. 7.1. This direction will operate till the next date of hearing i.e., till Mr Soni reverts with instructions.

7.2. Needless to add, the onus is also upon the applicants/appellants to touch base with the TMO to have their respective sales contracts registered and to fulfil all formalities, so that they can avail of quota/cap fixed by India for the crop year 2021-22 vis-à-vis Turkey.

8. In the meanwhile, counsel for the non-applicants/respondents will file their reply within the next ten days. Rejoinder thereto, if any, will be filed before the next date of hearing.

RAJIV SHAKDHER, J TALWANT SINGH, J JANUARY 24, 2022 / tr Click here to check corrigendum, if any LPA 211/2020 and connected appeals page 4 of 4