# M/S Oudh Sugar Mills Ltd. vs Union Of India on 7 February, 2020

## Equivalent citations: AIR 2020 SUPREME COURT 1773, AIRONLINE 2020 SC 424

## Author: R.Subhash Reddy

## Bench: R. Subhash Reddy, Mohan M. Shantanagoudar



IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3890 OF 2010

M/s Oudh Sugar Mills Ltd. …Appe

vs

Union of India & Anr. ...Responde

WITH

CIVIL APPEAL NO.3891 OF 2010

J U D G M E N T

R.SUBHASH REDDY,J.

1. These Civil Appeals are filed by the petitioner in Writ Petition No.6732 of 1986 filed before the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, aggrieved by the judgment and order dated 18.07.2006 and further order dated 11.09.2007 passed in Review Petition No.253 of 2006. By the aforesaid orders, the High Court has dismissed the Writ Petition and Review Petition respectively filed by the appellant herein.

C.A.No.3890 of 2010 etc.

2. The appellant is a public limited company namely Oudh Sugar Mills Ltd., situated at Hargaon, District Sitapur in the State of Uttar Pradesh. The appellant company invoked the jurisdiction of the High Court under Article 226 of the Constitution of India by seeking the following reliefs:

> "(i) Issue a writ, order or direction in the nature of mandamus directing the opposite parties to place the petitioners' sugar factory in East U.P. Zone for the purposes of the Sugar (Price Determination for 1984- 85 production) Order, 1984 and Sugar (Price Determination for 1985-86 Production) Order, 1985;

(ii) Issue a writ, order or direction in the nature of mandamus directing the opposite parties to permit the petitioner company to realise the price of their levy sugar as admissible to the sugar factories in the East U.P. Zone under the Sugar (Price Determination for 1984-85 Production) Order, 1984 and Sugar Price Determination for 1985- 86 Production) Order, 1985 and direct the opposite parties to further continue to place the petitioners sugar factory along with the other sugar factories of district Sitapur in the Uttar Pradesh east zone and may further direct the opposite parties to pay the petitioners the price of levy sugar as per the price applicable for sugar factories in the Uttar Pradesh east zone;

(iii) Declare Section 3(2)(f) and Section 3 (3c) of the Essential Commodities Act, 1955 as ultra vires of Article 14 and 19(1)(g) of the Constitution of India;

(iv) Issue any other writ order or direction as the nature of case may warrant;

C.A.No.3890 of 2010 etc.

(v) Issue an ad interim order in favor of the petitioners;

(vi) Award the cost of the case to petitioners."

3. As the appellant did not press for relief on the declaration sought on the validity of Section 3(2)(f) and 3(3c) of the Essential Commodities Act, 1955, the High Court did not go into the same as such.

4. For the crushing years 1984-85 and 1985-86 the appellant sugar mill was placed in central zone for the purpose of fixation of price for the levy sugar. Mainly, it was the case of the appellant that the geographical and climatic conditions of the sugar mills in the District of Sitapur, stand on the same footing as that of other similarly placed sugar factories namely Seksaria Biswan Sugar Factory Ltd. Biswan, District Sitapur and Kisan Sahkari Chini Mills Ltd. Mahmoodabad (Awadh), District Sitapur. Inspite of the same, these two factories were included in the eastern zone, while the appellant factory was discriminated against and kept in the central zone for the purpose of fixation of levy sugar price for the crushing years 1984-85 and 1985-86.

C.A.No.3890 of 2010 etc.

5. Considering the submissions made on behalf of both the sides and other material placed on record, the High Court, by recording a finding that the said decision was a policy decision which permitted the Central Government to make a reasonable classification and in absence of any case made out either of arbitrariness or hostile discrimination, dismissed the writ petition filed by the appellant.

6. We have heard Sri V. Shekhar, learned senior counsel appearing on behalf for the appellant and Ms. Binu Tamta, learned counsel appearing for the respondents and have perused the impugned orders and other material placed on record.

7. The price of levy sugar is fixed for a zone with an intention to ensure to the manufacturers of the sugar in the zone a reasonable return on their overall production and investment, provided that the units are running economically and efficiently. Sugar was a controlled commodity during the relevant time, covered by the provisions of the Essential Commodities Act, 1955. Certain quantity of sugar called levy sugar, was to be supplied to the Government at a price fixed by the Government and rest of the same was levy free sugar, which could be sold in open market. The price C.A.No.3890 of 2010 etc. of levy sugar was fixed based on the Control Order framed under the Essential Commodities Act. The price of levy sugar was fixed by the Central Government, having regard to various factors, including the basis of basic–cost schedules drawn and recommended by the expert body. As is evident from the stand of the respondents it appears that the survey report of Bureau of Industrial Cost & Prices (BICP) regarding the zonal pattern was not found feasible by the Government of India and the same was not implemented. The appellant has claimed parity with sugar factories at Biswan and Mahmoodabad, but such units were transferred to eastern zone on merits adjudged by the State Government and BICP and levy prices are fixed for zones and not for each factory. Zones were also not as per the revenue districts. Merely because there is difference in price in central zone and eastern zone, the appellant cannot claim, as a matter of right, its unit was to be placed in eastern zone instead of central zone during the relevant years. The impugned Orders questioned in the writ petition were based on exhaustive study by experts. The conclusions reached by the Central Government in exercise of statutory power cannot be said to be either discriminatory or unreasonable. So C.A.No.3890 of 2010 etc. far as sugar units at Biswan and Mahmoodabad are concerned, they were transferred to eastern zone on the basis of merits adjudged by the State. When the revenue districts are not the limits for zonal division, the appellant cannot claim parity with other units only on the ground that all the units are situated in Sitapur district. Even with regard to appellant unit, after a lapse of time it was considered feasible to place it in eastern zone and we are informed that the same was placed in eastern zone. As the appellant has failed to demonstrate any invidious discrimination and statutory violation, merely on the ground that other units in Sitapur district were transferred to eastern zone and that the representation of the appellant was not acceded to for the relevant crushing years, is no ground for interference. We are not persuaded to accept the plea that the appellant was discriminated against by placing the appellant unit in central zone and other units in Sitapur district in the eastern zone of Uttar Pradesh. The action of the Central Government in placing the factory of the appellant at two different times in two different zones also does not constitute any discrimination. The policy decision was taken from time to time subject to C.A.No.3890 of 2010 etc. satisfaction of the Government by taking into account expert reports. It is also the case of the respondents that the factory at Mahmoodabad was established at a

very higher free sale sugar over the normal quota as per incentive scheme of Government announced in November, 1980. Several relevant factors were considered by the State Government before announcing policy and for fixation of zones, during the crushing years of 1984-85 and 1985-86. For the above said reasons, we do not find any illegality in the impugned order dated 18.07.2006 dismissing the Writ Petition and further order dated 11.09.2007 dismissing the Review Petition No.253 of 2006, by the High Court. The High Court has considered the material in detail and by recording correct findings rejected the plea of the appellant. In view of such findings recorded and other reasons referred above, we do not find any merit in these appeals so as to interfere with the same. These appeals are, accordingly, dismissed with no order as to costs.

8. Pursuant to interim orders passed by this Court, 50% of the amount demanded is deposited by the appellant in the Registry and for the remaining 50% bank guarantees are furnished. We allow the respondent- C.A.No.3890 of 2010 etc. Government for withdrawal of such amount covered by deposit as well as bank guarantees and accrued interest thereon.

……J (MOHAN M. SHANTANAGOUDAR)
.....J (R. SUBHASH REDDY) NEW DELHI;

February 07,2020