

# SUPREME COURT OF INDIA

State of Maharashtra

Vs.

Narendra Oil Refineries

C.A.No.4813 of 1991

(S. Rajendra Babu and S. N. Phukan, JJ.)

29.02.2000

## ORDER

1. This appeal arises out of an order made by the High Court on a petition filed before it under Article 226 of the Constitution wherein the respondents sought for the benefit of octroi incentive resulting in reimbursement of the amount of the octroi paid by them, for a period of 5 years commencing from 15-8-1983 till 14-8-1988 as provided in para 9 of the 1979 Scheme and sought for a direction to pay the amount in certain sums towards the octroi paid by them during that period. The High Court on examination of the Scheme allowed the writ petition and directed the appellant to work out the benefit of octroi incentive to be granted to the petitioners in the light of the interpretation placed by it of Clause 9.2.

2. Learned counsel for the appellants submits that the Scheme makes it very clear that when a new unit becomes eligible for incentive, it would be from the date when the first item is brought into local authority's jurisdiction. Earlier in the present case, the industry was located in an area coming under village panchayat where no octroi was leviable and subsequently from 15-8-1983 it came under the jurisdiction of Amravati Municipal Council and, therefore, that date should not be taken into consideration but the date of the import of the first item for use of the industry in the local area is to be taken into consideration. The High Court while considering this argument noticed that the

levy would be attracted only on the industry coming within the Municipal area and would be subject to the levy of octroi and so benefit of incentive would arise. If the levy itself is not attracted, question of exemption of incentive also would not arise and on that basis the High Court gave the relief, as stated earlier.

3. We think the view taken by the High Court to be reasonable interpretation of the clauses with which we are concerned.

4. For the purpose of appreciation of the arguments advanced by the learned counsel for the appellants, we may set out the relevant clause and it reads as follows :

#### 9. Octroi Incentive

(9.1) A New Unit or a Near New Unit eligible for incentive under Part-I or Part-II will be entitled to refund of octroi duty payable and paid to the local authorities on import of all the items required by the unit, in the form of a grant from the Implementing Agency.

(9.2) The incentive will be available for the period as indicated below :

Area	New units/Near Units eligible under Part-I(All Industries i.e., SSI/MSI/LSI units/Near eligible under Part-II	New
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B. 3 years During the imple-

C. 5 years mentation of the

D. 7 years project till.

Pioneer Units 9 years Commencement of commercial production

From the date import of first item within the local authority's jurisdiction -do-

Resource as for 'B' Area Based Units -do-

5. The clause that falls for interpretation is : "from the date of import of First item within the local authority's jurisdiction" and the incentive will be available for the period indicated in Clauses A, B, C, D from that date. Thus the commencement of the benefit of incentive would be from the date the import of the first item within the local authority's jurisdiction as on 15-8-1983 and that should be the date to be reckoned as the first date from which the industry is deemed to have imported the goods in the local area for its use.

6. We are of the view that the view taken by the High Court is correct and no interference is called for by this Court. This appeal is, therefore, dismissed. However, there will be no order as to costs.

Appeal dismissed.