

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4176 OF 2003

M/s Ashok Alcochem Limited

... Petitioner

V/s.

State of Maharashtra and ors.

... Respondents

WITH
WRIT PETITION NO.3133 OF 2022
WITH
WRIT PETITION NO.9545 OF 2019
WITH
WRIT PETITION NO.9289 OF 2019
WITH
WRIT PETITION NO.3131 OF 2022
WITH
WRIT PETITION NO.3129 OF 2022
WITH
WRIT PETITION NO.3128 OF 2022
WITH
WRIT PETITION NO.2907 OF 2020
WITH
WRIT PETITION NO.3113 OF 2020
WITH
WRIT PETITION NO.13544 OF 2017
WITH
WRIT PETITION NO.429 OF 2018
WITH
WRIT PETITION NO.430 OF 2018
WITH
WRIT PETITION NO.405 OF 2019
WITH
WRIT PETITION NO.426 OF 2018
WITH
WRIT PETITION NO.427 OF 2018
WITH

WRIT PETITION NO.428 OF 2018
WITH
WRIT PETITION NO.431 OF 2018
WITH
WRIT PETITION NO.466 OF 2018
WITH
WRIT PETITION NO.782 OF 2018
WITH
WRIT PETITION NO.1061 OF 2018
WITH
WRIT PETITION NO.2360 OF 2018
WITH
WRIT PETITION NO.1258 OF 2018
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WRIT PETITION NO.1257 OF 2018
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WRIT PETITION NO.2260 OF 2019
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WRIT PETITION NO.2445 OF 2018
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WRIT PETITION NO.1832 OF 2018
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WRIT PETITION NO.3632 OF 2018
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WRIT PETITION NO.1833 OF 2018
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WRIT PETITION NO.2318 OF 2018
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WRIT PETITION NO.2317 OF 2018
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WRIT PETITION NO.2961 OF 2018
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WRIT PETITION NO.3419 OF 2019
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WRIT PETITION NO.5459 OF 2018
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WRIT PETITION NO.4843 OF 2018

WITH
WRIT PETITION NO.3616 OF 2018
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WRIT PETITION NO.3166 OF 2018
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WRIT PETITION NO.3617 OF 2018
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WRIT PETITION NO.3890 OF 2019
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WRIT PETITION NO.3891 OF 2019
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WRIT PETITION NO.4254 OF 2018
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WRIT PETITION NO.4238 OF 2018
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WRIT PETITION NO.4255 OF 2018
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WRIT PETITION NO.4880 OF 2018
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WRIT PETITION NO.4616 OF 2018
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WRIT PETITION NO.4881 OF 2018
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WRIT PETITION NO.4882 OF 2018
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WRIT PETITION NO.5535 OF 2019
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WRIT PETITION NO.6432 OF 2018
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WRIT PETITION NO.7722 OF 2018
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WRIT PETITION NO.9495 OF 2018
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WRIT PETITION NO.10858 OF 2018
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WRIT PETITION NO.11279 OF 2018
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WRIT PETITION NO.13386 OF 2018

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WRIT PETITION NO.11280 OF 2018
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WRIT PETITION NO.11281 OF 2018
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WRIT PETITION NO.13364 OF 2018
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WRIT PETITION NO.13230 OF 2017
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WRIT PETITION NO.13231 OF 2017
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WRIT PETITION NO.13392 OF 2017
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WRIT PETITION NO.13732 OF 2017
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WRIT PETITION NO.13720 OF 2017
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WRIT PETITION NO.13721 OF 2017
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WRIT PETITION NO.13463 OF 2017
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WRIT PETITION NO.13729 OF 2017
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WRIT PETITION NO.13730 OF 2017
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WRIT PETITION NO.13731 OF 2017
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WRIT PETITION NO.13847 OF 2017
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WRIT PETITION NO.13906 OF 2017
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WRIT PETITION NO.13908 OF 2017

WITH
WRIT PETITION NO.14047 OF 2017
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WRIT PETITION NO.14042 OF 2017
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WRIT PETITION NO.14055 OF 2017
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WRIT PETITION NO.14056 OF 2017
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WRIT PETITION NO.14057 OF 2017
WITH
WRIT PETITION NO.433 OF 2018
WITH
WRIT PETITION NO.432 OF 2018
WITH
WRIT PETITION NO.2163 OF 2018
WITH
WRIT PETITION NO.1591 OF 2019
AND
WRIT PETITION NO.14601 OF 2018

Mr.D.B.Savant with Mr.Vinayak Salokhe, Mr.Ramesh Lad, Ms.Sampada Khanolkar, Ms.Megha Jani, Mr.Vedastu Rane and Ms. Anjali Shah, Advocates for the Petitioners in WP Nos.9289/2019, 9545/2019, 2907/2020, 3113/2020, 3128/2022, 3129/2022, 3131/2022, 3133/2022, 12198/2017, 12202/2017, 12204/2017, 12205/2017, 12211/2017, 12213/2017, 12398/2017, 12399/2017, 12400/2017, 12421/2017, 12677/2017, 12678/2017, 12679/2017, 12680/2017, 12681/2017, 12682/2017, 12793/2017, 12934/2017, 12936/2017, 13105/2017, 13017/2017, 13108/2017, 13229/2017, 13230/2017, 13231/2017, 13729/2017, 13730/2017, 13731/2017, 13732/2017, 13906/2017, 13908/2017, 14047/2017, 14055/2017, 14056/2017, 14057/2017, 429/2018, 431/2018, 432/2018, 433/2018, 466/2018, 1061/2018, 1257/2018, 1258/2018, 1832/2018, 1833/2018, 2317/2018, 2318/2018, 2445/2018, 3616/2018, 3617/2018, 4238/2018, 4254/2018, 4255/2018, 4880/2018, 4881/2018, 4882/2018, 6432/2018, 7722/2018,

9495/2018, 11279/2018, 11280/2018, 11281/2018, 13364/2018, 14061/2018, 405/2019, 3890/2019, 2260/2019, 3891/2019, 3419/2019, 5535/2019, 9289/2019, 9545/2019, 2907/2020, 3113/2020, 3128/2022, 3129/2022, 3131/2022 and 3133/2022.

Mr.Anil Sakhare, Senior Advocate i/by Mr.Joel J. Carlos, Advocates for the Petitioners in WP Nos.13720/2017 and 13721/2017.

Mr.Abhijit B. Kadam, Advocate for the Petitioners in WP No.2360/2018 and 4616/2018.

Ms.Shalu Tanwar i/by Mr.Bhushan Walimbe, Advocates for the Petitioners in WP Nos.13392 of 2017 and 13847 of 2017.

Mr.Shekhar Jagtap with Mr.Sairuchita Chowdhary and Rhea Francis i/by M/s J. Shekhar & Co., Advocates for Petitioner in WP No.782/2018.

Mr.Prasanna Namboodiri with Mr.Virendra Pandey, Advocates for the Petitioner in WP No.13544/2017.

Mr.A.A.Valsangkar i/by Mr.Samir Kumbhakoni, Advocates for the Petitioner in WP No.10858/2018.

Ms.Gauri Vekankar i/by Mr. S.S.Aradhya, Advocates for the Petitioner in WP No.2163/2018.

Mr.Rahul P. Kasbekar i/by Mr.Surel S. Shah, Advocates for the Petitioner in WP No.3166/2018.

Mr.Austin Fernandes i/by Mr.Denzil D'Mello, Advocates for the Petitioner in WP No.13463/2017.

Ms.Shruti D. Vyas, "B" Panel Counsel for the State/ Respondents in all the petitions.

**CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.
DATE : 20 JANUARY 2023.**

P.C.:-

1. Heard the learned counsel for the parties.

2. This group was listed on board for the State to make clear its stand in the light of the fact that the judgment and order passed by this court in Writ Petition No.2922 of 2001 on 6 May 2011 in case of *Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Limited, Solapur Vs. State of Maharashtra and ors.*¹ has not been stayed by the Supreme Court, even though appeals are pending since 2012.

3. The learned counsel for the State tenders an affidavit wherein communication issued to All Superintendents, State Excise Commercial Department dated 10 May 2019 is placed on record. It is stated that till the petitions are pending, no fee for the transportation of the molasses be charged. The learned counsel for the State has drawn our attention to the amendment dated 19 June 2020 to Rule 19 of the Bombay Molasses Rules, 1955 whereby the rate has been reduced from Rs.500/- metric ton to Rs.1/- metric ton of molasses. The learned counsel for the Petitioner states that since it is their contention that there is no power in the State to charge fee on transport of molasses even charge of Rs.1/- metric ton would be illegal.

4. The learned counsel for the Petitioners seeks time to amend the writ petitions to incorporate challenge to the amendment of Rule 19 of Bombay Molasses Rules, 1955 by Bombay Molasses (Amendment) Rules of 2020. Leave granted. Re-verification is dispensed with.

¹ 2011(3) ALL MR 852

Amendment to be carried out within period of two weeks. The reply of the State, if any, to be filed within a period of two weeks thereafter.

5. At the joint request, Writ Petition No.1370 of 2017 is treated as the lead petition in this group.

6. Stand over to 20 February 2023 to be listed under the caption "For Directions" to fix a suitable date for hearing if all the pleadings are complete.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)

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