

AGAUTA SUGAR AND CHEMICALS

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v.

STATE OF U.P. AND ORS.

MAY 1, 1997

[K. RAMASWAMY, S. SAGHIR AHMAD AND
G.B. PATTANAIK, JJ.]

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Sugar and Sugarcane :

Sugar factory withholding payment of cane growers—Collector attached sugar stock-in-hand—Sugar factory filed writ petition in High Court and pending writ petition filed appeal before Supreme Court with regard to interim directions—Held, District Collector would assess the quantum of sugar stock in order to meet the price of sugarcane with interest due to cane growers and commission to the Societies—It would be first charge and recordable against the stock of sugar—The entire amount received from the sale would be paid to cane growers—Thereafter the sugar factory may make an application before the Collector stating its liability towards excise duty and arrears of wages to employees—District Collector would assess the quantity of sugar to meet the said requirement and allow the sale by the appellant for the purpose—Pending implementation of the order, no coercive steps will be taken against the factory or any of its shareholders or officers.

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3512-3513 of 1997.

From the Judgment and Order dated 27.2.97 and 21.3.97 of the Allahabad High Court in C.M.A. No. 1255(W)/97 in W.P. No. 775 (MB) and C.W.P. No. 775 of 1997.

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Shanti Bhushan, A.B. Rohtagi, D.A. Dave, M.N. Krishnamani, Jatinder Sethi, Ms. Meenakshi Arora, Prashant Kumar, Pradeep Misra, Rekha Agarwal and Pravir Choudhary for the appearing parties.

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The following Order of the Court was delivered :

Leave granted.

Application for impleadment allowed.

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A These appeals by special leave, arise from the judgment and order of the Division Bench of the Allahabad High Court, made on February 27, 1997 and March 2, 1997 in C.M. Application No. 1255(W)/97 in Writ Petition No. 775(MB)/97 and Writ Petition No. 775/MB/97.

B It is not necessary to reiterate all the factual details. Suffice it to state that the appellant had used the sugarcane supplied by the cane growers individually or through the societies. As a consequence, we are informed, around Rs. 29 crores are in arrears for payment to the cane-growers. The Collector exercising the power of recovery proceedings had attached the sugar stock-in- hand; against that, the appellant filed a writ petition.

C Pending writ petition, the High Court has granted certain directions, which ultimately could not be complied with. Consequently, the interim directions stood vacated. Thus, these appeals by special leave.

Having heard the learned counsel on both sides, we think that the following order would meet the situation:

D (1) The District Collector, Bulandshahar is directed to assess as to what is the quantum of the Sugar stock-in-hand would be sufficient to meet the payment of price of the sugarcane together with interest to all the cane growers towards the sugarcane supplied by them for all the crushing seasons as also the Societies' commission. It would be a first charge and recordable against the stock of sugar. On so assessing, he would permit the appellant to sell that quantum of stock of sugar. The sale proceeds thereof, when received from the appellant, are directed to be credited to an account to be opened by the Collector in a nationalised Bank towards this amount.

E The Collector is directed to depute a responsible officer of his collectorate to be present at the time of sale. The officer would ensure that the sale would be made only of the permitted stock and that the sale proceeds are credited to the said account directed to be opened in that behalf. On the amount being so deposited, the entire amount due shall be paid to the cane growers.

G (2) After the sale thus is effected and payment made to the cane growers, it would be open to the appellant to file an application before the Collector stating as to what amount it is liable to pay towards Excise Duty and arrears of wages to the employees etc. On the statement so made, the District Collector is directed to assess as to what quantity of sugar from the remaining stock-in-hand would meet the above requirements; he would

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accordingly allow the release of that part of the stock-in-hand for sale by the appellant for liquidation of Excise Duty, arrears of wages etc. A

The above exercise would be done within a period of two months from the date of receipt of this order. In the event of the appellant succeeding in the writ petition, appropriate directions may be given by the High Court in the main writ petition for mutual adjustment of any amount repayable by the cane growers. The order of attachment would stand lifted after compliance of these directions. If there is any difficulty in the implementation of this order, liberty is given to the appellant to approach this Court. Pending implementation of this order, we hope and trust that no further coercive steps will be taken and no officers, who are members of the appellant-company or shareholders of the company, would be detained. B C

Appeals are accordingly disposed of. No costs.

R.P.

Appeals disposed of.