

Kinetic Engineering Limited and anr. Vs. State of Maharashtra and ors.

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Court : Mumbai

Decided On : Jun-25-2004

Reported in : 2004(6)BomCR750; 2004(3)MhLj1034

Judge : S.B. Mhase and ;A.P. Deshpande, JJ.

Acts : Maharashtra Municipalities (Octroi) Rules, 1968

Appeal No. : Writ Petition No. 381 of 1992

Appellant : Kinetic Engineering Limited and anr.

Respondent : State of Maharashtra and ors.

Advocate for Def. : R.P. Phatke, Assistant Govt. Pleader for Respondent No. 1 and ;P.M. Shah, Sr. Adv. holding for V.P. Latange, Adv. for respondent Nos. 2 and 3

Advocate for Pet/Ap. : Milind Sathe and ;Ashir Amin, Advs. holding for K.C. Sant, Adv.

Judgement :

A.P. Deshpande, J.

1. The petitioner No. 1 is a Company registered under the provisions of the Companies Act, 1956, and it carries on business inter alia of the manufacture,

production, distribution and sale of 'Mopeds'. The petitioner No. 2 is the Chairman of the petitioner No. 1/Company. At the relevant point of time, the respondent No. 2, Ahmednagar Municipal Corporation, was a Municipal Council, governed and regulated by the provisions of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965. The petitioner No. 1 started manufacturing activity at Ahmednagar sometime in the year 1972 and from 1972 to 1977, the petitioners were not required to pay any octroi by virtue of an exemption granted by the then Municipal Council. However, after the year 1977, the then Municipal Council commenced levying and collecting octroi from the 1st petitioner under the provisions of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, read with the Maharashtra Municipalities (Octroi) Rules, 1968 (For short, hereinafter referred to as 'the Rules') framed by it under section 321 read with section 105 of the Maharashtra Municipalities Act.

2. It is the case of the petitioner, that for manufacture of its Mopeds which are sold in the market, under the product names, 'Kinetic Luna' and 'Kinetic TFR', they imported within the area of Ahmednagar Municipal Council, various types of raw materials and components. The petitioners purchased the said components from manufacturers/suppliers and the same were used in the manufacturing process of the 'Mopeds'. It is not in dispute that the petitioners do not import 'Mopeds' but only imports its components. The controversy in the present petition pertains to the classification of the components/goods that are imported by the petitioners for manufacture of Mopeds for the purpose of levy of octroi.

3. In regard to the classification of the components of the Mopeds imported into the local area of the Municipal Council, on which octroi is to be levied, there was a dispute between the petitioners on the one hand and the Municipal Council, on the other hand. In the year 1985, the petitioner was made available current account facility as per the provisions of section 142 of the Act on the terms and conditions mentioned therein and the petitioners have been paying octroi to the 2nd respondent in accordance with the same.

4. The Rules, and to be precise Rule 3 thereof authorizes the Municipal Council, subject to the provisions of the Act and Rules and Bye-laws made thereunder, to levy octroi in respect of several goods specified in Schedule I appended to the Rules. The Schedule prescribes maximum and minimum rate of octroi and the Municipal Council is permitted to levy octroi in between the maximum and the minimum rate stipulated in Schedule I as per Sub-rule (2) of Rule 3 of the Rules. The Municipal Council has to fix the rates at which the octroi is to be levied on different goods after complying with the procedure provided in Rule 5 of the Rules. The relevant goods and the rates are contained in Entry No. 75, which reads thus :

Description of goods	Ad-valoremNo.	_____	Maximum
MinimumRate			
Rate	_____		
2			3
4			
cent Per cent	75. Vehicles - (a) motor cars, motor cycles, chasis andlorries, and		
spares	thereof.		4.00
0.50	_____		
bicycles, perambulators, carriages,	all kinds of vehicles and theircomponents and		
spares.			4.00
0.50	_____		

The Municipal Council in exercise of its powers has fixed the rate of octroi at 4% for the goods covered by Entry No. 75(a) and at the rate of 2% for the goods covered by Entry No. 75(b). The Municipal Council has classified all the goods (components of Moped) imported by the petitioners within the limits of Municipal Council as covered by Entry 75(a). The petitioners claim that the said classification for levying octroi is incorrect, illegal and without authority of law. The petitioners claim that all goods (components of Moped) ought to be classified in Entry No. 75(b); whereas the Municipal Council has wrongly classified the same as falling under Entry No. 75(a).

5. The Municipal Council levied the octroi on the components imported by the petitioners for manufacture of the Moped at the rates specified for goods covered by Entry No. 75(a). The petitioner protested against the same, asserting that the components ought to be levied octroi at the rate fixed for Entry No. 75(b). The petitioner has objected to the classification of the goods, which they imported, vide their letter dated 1st October 1987. The Chief Officer of the then Municipal Council sought clarification from the Secretary, Urban Development Department of the State of Maharashtra, about the classification of the material imported by the petitioners for the manufacture of their mopeds. Awaiting a decision from the Government, an interim arrangement was arrived at by the petitioners and the Municipal Council in its meeting held on 9th June 1988 in the matter of payment of octroi. The Municipal Council went on moving the State Government from time to time seeking its opinion about the classification of the goods imported by the petitioners, but no earlier reply was received from the Government. The State Government by its communication, in response to the last reminder sent by the Municipal Council, dated 7-1-1992, gave its opinion/decision vide letter dated 10th January, 1992 to the following effect :

'In connection with the above letter, we hereby inform you that the 'Moped' is an automotive vehicle, so it is covered in 75(a) of schedule of Maharashtra Municipalities (Octroi) Rules, 1968 and 'Octroi' is to be collected accordingly.'

Objecting to the said opinion, Shri Sathe, learned Counsel for the petitioners, contended that in the first place, no clarification was sought in regard to the classification of 'Moped', for the reason that 'Mopeds' were admittedly not imported by the petitioners and what was imported within the municipal area, were the components of the 'Moped'. Secondly, it is contended that the said opinion/decision is rendered without granting any opportunity to the petitioners of being heard in the matter and lastly, it is stated that this opinion of the Government is incorrect and cannot bind the parties. It is then submitted that the action of levy of octroi at 4% by the Municipal Council, based on the opinion of the State, is contrary to the minutes of the meeting drawn between the petitioner and the Municipal Council and the terms thereof and, as such, it cannot provide a justification for the Municipal Council to impose the octroi duty.

6. In the above factual backdrop, Shri Sathe, learned Counsel for the petitioners, contended that the Entry No. 75 which deals with vehicles classifies all the vehicles into two categories - one covered by Entry No. 75(a) and the other covered by Entry No. 75(b). Entry No. 75(a) is very clear, unambiguous and definite which names only five types of vehicles viz. motor cars, motor cycles, chasis, lorries, and spares thereof. It is the submission made that as the petitioners are not importing motor cars, motor cycles, chasis or lorries, but are importing components of Mopeds, the said goods cannot be classified under Entry No. 75(a) and the goods need to be classified in the residual category in Entry No. 75(b). Entry No. 75(b) includes bicycles, perambulators, carriages, all kinds of vehicles and their components and spares.

7. In the above premise, following legal submissions are made and the learned Counsel seeks adjudication thereof :--

(A) The goods included in Entry 75(a) does not specifically include Mopeds and hence it cannot be read in the said entry for the reason that the words used in a Taxing/fiscal statutes/Rules are to be strictly construed and are to be given their natural meaning as is understood in common parlance by those who are dealing in the said business. The word 'Motorcycle', in Entry (a), cannot and does not include 'Moped'. Moped falls in the residual expression 'all kinds of vehicles and their components and spares', used in '(b)'.

(B) There is no scope for inclusion by analogy or intendment and it is only when goods are stated (described) clearly and unambiguously then only octroi could be levied on those goods and not otherwise.

(C) If two interpretations are possible, the one that favours the subject has to be accepted and not the one which favours the taxing Authority.

Alternatively it is contended that even assuming that 'Mopeds' fall under item 'Motorcycles' in Entry 75(a) the components of Moped would not fall in the said entry as word 'components' is conspicuously absent in Entry 75(a) and very much present in Entry 75(b).

8. Per contra, the learned Senior Counsel Shri P.M. Shah, submits that 'Motorcycles' include 'Mopeds' and it covers all species of cycles driven by motor power and includes scooters, mopeds, etc. It is next submitted that there is no distinction between the words 'components' and 'spares'. Both the words are used in the same sense and carry the same colour. In the submission of the learned Senior Advocate, component parts are those which are initially used in the assembly or manufacture of a vehicle and spare parts are those parts which are used for the subsequent replacement therein, of damaged or worn out parts. A spare part is a replacement part to replace a damaged component but it is nevertheless a component part, 'component' is a genus and the 'spare' is species thereof. 'spare' by itself is a 'component' which is used for replacement. On this premise, he claims that in the first place 'Mopeds' need to be read in 'Motorcycles' in Entry 75(a) and in the second place, 'components' need to be read in place of 'spares' or in addition to 'spares' in the said entry.

It is claimed that the Municipal Council was within its right to levy octroi on the components of moped imported by the petitioners within the local area of jurisdiction of the Municipal Council, at the rate stipulated for in Entry No. 75(a).

9. Before considering the rival contentions, we would like to state the settled position of law in interpreting taxing statutes, rules or provisions. We summarize the rules of interpretation herein below :

(a) No proposition is better established than that a tax cannot be imposed on a subject unless by clear words. In other words, taxation to be effective must be imposed, by unequivocal and unambiguous language, Taxing statutes must state with the utmost clearness what and whom and in what manner they are taxed.

'It is well settled that in a taxing statute one has to look at what is clearly said. There is no room for any intendment, there is no equity about the tax. Nothing is to be read in and nothing is to be implied.' The Allahabad High Court has thus summarized the rule in *C.I.T., Kanpur v. Upper Doab Sugar Mills, Shamli* 1978 All. L.J. 128. (b) Whenever it is sought to impose a rate, the burden lies on those seeking to enforce it to show that the words used by the Legislature are clear and unambiguous in order to charge the rate. In taxing provision, if there are two

possible constructions of the words of the statute then effect is to be given to the one that favours the citizen and not the one that imposes a burden on him. : [1958]1SCR1102 (FB).

(c) A taxing statute must be construed strictly. The taxing authority must show that the tax/octroi sought to be recovered at a given rate has been imposed in language which admits of no reasonable doubt. Nothing is to be read in and nothing is to be implied and one has to look fairly at the language used. In case of reasonable doubt, the construction which is more beneficial to the subject should be adopted. (: [1971]81ITR763(SC) and : [1970]77ITR518(SC)).

(d) No tax can be imposed by inference or by analogy or by trying to probe into the intentions of the Legislature and by considering what was the substance of the matter.

(e) It is a valid presumption in a taxing statute to attribute common and popular meaning to the denominating words with regard to the articles which are the objects of sale and of which the transactions are subjected to the incidence of tax 1976 Mah.L.J. 326.

(f) The scope of a fiscal provision cannot be enlarged by creating a fiction. Provisions cannot be extended by implication to enlarge the operation so as to embrace matters not specifically covered.

(g) While interpreting entries in Sales Tax legislation, the Apex Court laid down a cardinal rule of interpretation which need to be borne in mind, that the words used in the entries must be construed neither in any technical sense nor from the scientific point of view, but as understood in common parlance. The words used by the Legislature must be given their popular sense meaning, 'that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it.' : [1980]1SCR938 .

The words used should be understood in ordinary and popular sense and not in any technical sense. Trade meaning should be ordinarily ascribed. : 1988(37)ELT480(SC) .

10. Taking into consideration the submissions made by the rival parties, we proceed to formulate the questions which need to be decided at the touchstone of the legal position referred to in the preceding paragraph :

(i) Whether 'Mopeds' could be classified and/or would fall within the ambit of the term 'Motorcycles';

(ii) Whether the word 'components' could be read in addition to or in place of the word 'spares' used in Entry No. 75(a); and

(iii) Whether the 'components of Mopeds' would fall under Entry No. 75(a) or 75(b).

In support of the submissions, Shri Sathe, learned Counsel for the petitioners, has placed reliance on the judgment of Division Bench of this Court, reported in : 1998(1)BomCR745 , in the case of Bajaj Tempo Limited and Anr. v. The Pimpri Chinchwad Municipal Corporation and Ors. In the said case, a similar question arose for determination of the Bench. The petitioner in the said petition viz. Bajaj Tempo Limited, which was carrying on business of manufacture and sale of light commercial vehicles in different models, such as, mini-bus, station wagon, utility van, ambulance, pick-up truck, dual cabin pickup truck, delivery van, autorickshaw, etc. within the municipal limits of Pimpri-Chinchwad, was importing various types of raw material components and spares, and the said goods were levied with octroi duty under a similar provision. The Pimpri-Chinchwad Municipal Council published a revised table of rates and the Entry No. 75 in the said petition read as follows :

Description	of	goods
PercentNo.		
Vehicles	0.50	A. Motorcars, Motorcycles, Chassis and lorries and spares thereof.
2.00	B. Bicycles and their spares parts.	0.50
C. Perambulators, carriages, all	0.50	
kinds	of	Vehicles
and	their	components
and	spares.	

It was contended by the petitioners in the said petition, that the goods need to be read in Entry No. 75(c); whereas the Municipal Council contended that the imports need to be charged with octroi under Entry No. 75(a). While dealing with the said question, this Court held in para 9 of the judgment, thus :

'In our opinion, the words 'all kinds of vehicles' are extremely wide in their application and cover all the vehicles other than the vehicles falling under Entry 75-A. They will have to be read in the light of definition of vehicle under section 2(50) and so read they would cover, within their ambit, all kinds of vehicles other than those covered by Entry 75-A. It is, therefore, not possible to accept the argument of Mr. Walawalkar that the intention of the rule makers was to give restrictive meaning to the expression 'all kinds of vehicles'. Thus the vehicles manufactured by the Company and their components and spares would fall under Entry 75-C and will be liable to be charged at the rate of 0.5 per cent. Entry 75-A speaks only of vehicles and spare parts and not of components. Therefore, even assuming that the vehicles manufactured by the company fall under Entry 75-A, the components would be governed by Entry 75-C and liable to be charged at the rate of 0.5 per cent. Some controversy has been raised as to whether the goods imported by the Company are components or spares. It is submitted by Mr. Walawalkar that no distinction can be drawn between spares and components for the purpose of octroi. The argument is without any merit. The words 'spare part' means an extra part of a vehicle or machine kept for use in emergency or replacement. The expression 'spare parts' cannot be equated with 'parts' without regard to the colour that is lent by the word 'spare'. As a matter of plain language, the expression 'spare parts' connotes a part which requires replacement in the ordinary course on account of wear and tear, and as an extra item for use in an emergency (See *Sujan Singh v. Appellate Assistant Commissioner, Sales Tax (Delhi)*, Sales Tax Cases Vol. XXIV 504). Thus, Mr. Walawalkar is not right in saying that the components brought by the Company would fall under Entry 75-A.'

By process of interpretation, the Division Bench held that the raw materials, components and spares imported by the petitioner (in the above referred petition) are not covered by Entry 75-A viz. Motorcars, Motorcycles, Chassis and lorries and spares thereof, but falls under Entry 75-C viz. Perambulators, carriages, all

kinds of vehicles and their components and spares. The Division Bench has also held that there is a distinction between 'components', and 'spares' and one cannot be read along with or in place of the other.

The said judgment very strongly backs up the submission made by the learned Counsel for the petitioners.

11. We proceed to test the correctness of the submission of the petitioners, that 'Mopeds' would not fall within the entry 'Motorcycles', by analyzing the same. The test ought to be as to how would persons dealing in the trade of vehicles and conversant with the goods would understand a motorcycle vis-a-vis a 'Moped'. Take example of a hypothetical case - How will a person conversant with the said two vehicles would place his demand for purchase of any of the two vehicles. Will a trader dealing in Motorcycles and Mopeds place his order with the Manufacturer for Mopeds if he wants to purchase Motorcycles? And if he does so, would the manufacturer supply him the vehicle which the trader wants to buy. The answer is obvious, at least in this region, no trader would place an order for Mopeds if he wants to buy Motorcycles and vice versa. If such an order is placed, the Manufacturer would supply him wrong goods. Leave aside a trader, even a consumer will not ask for Motorcycle if he wants to buy a Moped. In common parlance, both the types of vehicle are understood differently. The words 'Motorcycles' and 'Mopeds' are not synonymously used and they refer to different articles. Seen from this angle, it does appear that the Entry 'Motorcycles' cannot be clearly and unambiguously read to include 'Mopeds' and vice versa.

12. It is next submitted by the learned Counsel for the petitioner that there is an inherent difference between a 'Motorcycle' and a 'Moped'. Relying on the dictionary meaning of 'Moped' given in Shorter Oxford Dictionary, he submits that 'Moped' is a vehicle below 50 CC (Displacement). Placing on record the brochure, he states that the mopeds manufactured by the petitioners are of 49.8 CC. It is claimed that the mopeds in question are convertible to bicycle in case of emergency and it has pedals. Various other technical details were canvassed to bring home the difference between 'Motorcycle' and 'Moped'.

13. As observed hereinabove, while interpreting an entry, authorizing levying of octroi, we cannot go by the technical meaning but have to adhere to the popular meaning assigned to the goods in common parlance. All these technical distinctions are of no avail to find out as to whether 'Mopeds' are covered by 'Motorcycles'. Hence this submission of the petitioner stands rejected.

14. Shri Shah, learned Senior Advocate appearing for respondent Nos. 2 and 3 has placed reliance on the provisions of the Motor Vehicles Act and the notification issued by the Central Government thereunder, whereby vehicles are classified into groups and the group of 'motorcycles' include 'Mopeds'. He submitted that as Motor Vehicles Act deals with all kinds of motor vehicles, the notification issued by the Central Government, so also, the provisions of the Motor Vehicles Act need to be taken aid of while interpreting the terms 'Motorcycles' and 'Mopeds'.

We are afraid, the same cannot be done. While interpreting a provision in a statute, Courts can take aid of statutes which are *pari materia*. Motor Vehicles Act is a Central Statute dealing with altogether different subject with a different purpose in mind; whereas Octroi Rules is a separate piece of legislation under the State Act. Hence the submission made by Shri Shah and reliance placed by him on the notification issued by the Central Government being misplaced, is rejected. The point is no longer *res integra* and is covered by the judgment of the Apex Court reported in : [2000]246ITR609(SC) , in the case of Jagatram Ahuja v. Commissioner of Gift Tax, Hyderabad. In para 23 of the judgment, the Apex Court has observed thus :

'We find that Kantilal Trikamlal case supports the view taken in Getty Chettiar case : [1971]82ITR599(SC) . Added to this, section 2(15) of the Estate Duty Act, defining 'property' came up for consideration in Kantilal Trikamlal case. We may state here itself that the words and expressions defined in one statute as judicially interpreted do not afford a guide to construction of the same words or expressions in another statute unless both the statutes are *pari materia* legislations or it is specifically so provided in one statute to give the same meaning to the words as defined in the other statute. The aim and object of the two legislations, namely, the Gift Tax Act and the Estate Duty Act are not similar.'

15. With a view to substantiate his submission, that word 'component' should be read in place of 'spares' or in addition to 'spares' in Entry 75(a), Shri Shah, learned Senior Advocate appearing for respondent Nos. 2 and 3, places reliance on the judgment of the Apex Court reported in : 1999(114)ELT778(SC) , in the case of Hindustan Sanitaryware and Industries Ltd. and Lakshmi Cement v. Collector of Customs, Calcutta. In the said case, a notification was issued under the Customs Act, 1962, exempting refractory bricks of special shape or quality for use as component part of Industrial furnaces, partly or wholly from customs duty. The claim of the assessee for exemption was rejected by CEGAT on the ground that the benefit of the said notifications was available to refractory bricks of special shape or quality imported for use as 'component parts' of industrial furnace and not to those imported for use as 'spare parts' of industrial furnace. Against the order of CEGAT, Appeal was carried to the Apex Court.

During the intervening period, when the matter was pending before the Supreme Court, the same issue was considered by a five Member Bench of the Tribunal which judgment is reported in (Tribunal), in the case of Jindal Strips Ltd. v. Collector of Customs, Bombay. On a reference made by two Member Bench of the Tribunal, a larger Bench of five Member of the Tribunal considered the issue of exemption from customs duty to the 'spare parts' under the entry 'components'. It held that meaning assigned to the words in common parlance should be ascribed and proceeded to hold that 'component' is the genus and 'spare' is a specie, that is, component which is used for replacement. The Tribunal further held that the word 'component' indicates the nature of the article and not the user of the article while the word 'spare' indicates the use to which the article is put and not the nature of the Article. The nature of the spare is that it is a component and its use is as replacement. The Tribunal granted the benefit under the Notification which was available to component parts even to the spare parts.

Allowing the appeal filed by the assessee, the Apex Court held that a spare part was a replacement part to replace a damaged or worn out component, but it was nevertheless a component part. It held that 'component' was the genus and 'spare' was a species thereof, it was a component which was used for replacement. The Apex Court upheld the view taken by the Larger Bench of the Tribunal. The Apex

Court further held that a spare part, though fitted into a machine subsequent to its manufacture, to replace a defective or worn out part becomes a component of the machine and it is a component part. In other words, the Apex Court has held that a spare part is a component part, as component is a genus and spare is its species. As such, every 'spare' would be a 'component' but every 'component' may not be a 'spare'.

Read in the right perspective, the said judgment of the Apex Court does not carry the case of the respondents any further. We cannot read 'component' in place of a 'spare' whereas it is possible to read 'spare' in place of word 'component'. Species cannot be read in the genus but not vice versa. Hence, we reject the submission of Mr. Shah, that 'components' should be read in place of 'spares' or in addition to 'spares' in Entry 75(a).

16. In the present case, the residual clause contained in Entry No. 75(b) speaks of 'all kinds of vehicles and their components and spares'. We are of the view that as the word 'components' is not included in Entry No. 75(a), the same cannot be read in the said Entry so as to enlarge the scope of the original entry. Only spares of four types of vehicles are chargeable at the rates stipulated against the said entry viz, motor cars, motor cycles, chassis and lorries. We are of the view that as there is no clear mention of 'Mopeds' in entry 75(a), we cannot read the said goods in 'Motorcycles' and enlarge scope of the entry as the same is not permissible while interpreting the entries imposing tax/octroi. 'Motorcycles', in our view, is not a word synonymous with 'Mopeds' and as such, 'Mopeds' cannot be classified by adopting a process of interpretation in 'Motorcycles' as a class of vehicle. While reaching this conclusion, we are also relying on the definition of 'vehicle' under section 2(50) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, under which the Octroi Rules are framed. The definition reads thus :

' 'Vehicle' includes a carriage, cart, van, dray, truck, hand-cart, bicycle tricycle, motor-car, and every wheeled conveyance which is used or is capable of being used on a street.'

17. As we proceed to hold that 'Mopeds' are not covered by 'Motorcycles', as a type of vehicle, the components and/or spares thereof cannot be charged with octroi under Entry No. 75(a) but the same needs to be charged under Entry No. 75(b), as 'Mopeds' fall under the description all kinds of vehicles and their components and spares. We are not called upon to decide the question as to whether the components of motor cars, motor cycles, chassis and lorries could be levied with octroi duty under Entry No. 75(a) and, as such, we do not answer the said question.

In the result, we conclude that 'Mopeds', their components, so also, spare parts need to be charged with octroi duty at the rate of 2% by treating the same as falling in Entry No. 75(b) of the Octroi Rules.

18. Before we conclude, we need to point out that the then Municipal Council (now Municipal Corporation) had made a demand towards levy of octroi from the petitioner in the sum of Rs. 3,35,73,528/- (for the period commencing from 1st September 1987 to 31st January 1992). While issuing rule, this Court had directed the petitioners to deposit an amount of Rs. 1,70,00,000/- in this Court and to furnish Bank Guarantee for the balance amount. The respondent Nos. 2 and 3 were permitted to withdraw the entire amount deposited in this Court on furnishing bank guarantee to the extent of like amount. This Court had also directed that the current account facility that was made available to the petitioners to continue. By another interim order, for the subsequent period, the petitioners were permitted to pay octroi at the rate of 2% instead of 4%. On furnishing of the bank guarantee by the Municipal Council (respondent Nos. 2 and 3), they were permitted to withdraw the amount deposited by the petitioner.

19. In the result, the Writ Petition is allowed. The impugned letter dated 10th January, 1992, the impugned bill of demand dated 12th February 1992, so also, the impugned letter dated 12th February, 1992, are quashed and set aside, and we direct the respondent Nos. 2 and 3 to pay a sum of Rs. 1,70,00,000/- (Rupees One Crore and Seventy Lacs) to the petitioners, within a period of four weeks from today. We permit the petitioners to encash the bank guarantees furnished by the respondent Nos. 2 and 3, in the sum of Rs. 1,70,00,000/-, in case, the respondent

Nos. 2 and 3 fail to pay the said sum of Rs. 1,70,00,000/-within the stipulated period. Needless to mention, that the bank guarantees furnished by the petitioners for the balance amount of the bill, need to be revoked and we hereby revoke the same.

20. Rule made absolute in the above terms. In the circumstances of the case, there shall be no order as to costs.

21. At this stage, Shri V.P. Latange, learned Advocate for respondent Nos. 2 and 3, submitted that the order passed by this Court may be stayed for a period of 12 weeks.

As the prayer is in the nature of seeking stay of an order which is in the nature of money decree, we refuse to grant stay and the request stands rejected.

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