

**F.No. 17/21/2001-MSHP/MPR
Government of India
Ministry of Chemicals & Fertilizers
Department of Fertilizers**

**Shastri Bhawan, New Delhi
The 21st November 2011**

OFFICE MEMORANDUM

Subject: Judgement of the Hon'ble Supreme Court of India dated 8.11.2010 in the petitions for Special Leave to appeal (Civil) CC 15688-15689 of 2010 (Union of India Vs. Southern Petrochemical Industries Corporation Ltd. and others) in respect of the Order dated 23.11.2009 of the Hon'ble High Court of Delhi in LPA No. 95/2008 and LPA No. 231/2008.

The undersigned is directed to refer this Department's Office Memorandum of even number dated 14.2.2011 on the subject mentioned above. Accordingly, certain manufacturers/importers of DAP have been allowed to claim concession, under the concession scheme for decontrolled phosphatic & potassic fertilizers, from Department of Fertilizers, in terms of the judgement dated 23.11.2009 of the Hon'ble High Court of Delhi in the LPA No. 95/2008 and 231/2008, and Judgement of the Hon'ble Supreme Court of India dated 8.11.2010 in SLP No. 15688 – 15689 of 2010. Resultantly, the manufacturers/importers, who were petitioners in the above said matter, were allowed to get concession from Department of Fertilizers, for an amount of Rs. 3750 PMT on indigenous DAP and Rs. 2250 PMT on imported DAP, with effect from 1.4.1997 to 31.3.1998, in terms of the circular dated 5.3.1997, issued by Department of Agriculture & Cooperation.

2. M/s Paradeep Phosphates Limited (PPL) submitted its representation dated 8.4.2011 to Department of Fertilizers to accord PPL the same concessions as have been made available to the petitioners in the above mentioned court cases. M/s PPL filed Writ Petition (C) 7511 / 2011 in the matter of Paradeep Phosphates Limited Vs Union of India before the Hon'ble High Court of Delhi at New Delhi, with the prayer to issue directions to Department of Fertilizers to make payments in respect of the claims made by M/s PPL, in accordance with the circular dared 5.3.1997, issued by Department of Agriculture & Cooperation. The Hon'ble High Court of Delhi, vide its order dated 17.10.2011 directed to the Department of Fertilizers to take a decision on the claims of PPL within two weeks and communicate the same to PPL. The Hon'ble High Court further directed that in case the same is denied, Department of Fertilizers should file a counter affidavit disclosing the reasons therefor and also place on record the order passed by Department of Fertilizers. The Hon'ble High Court directed Department of Fertilizers on 17.10.2011 to file counter affidavit within three weeks from the date of the above order. The Hon'ble High Court took its hearing on 2.11.2011, wherein Department of Fertilizers was again given time of three weeks from 2.11.2011, to decide the matter in terms of its order-dated 17.10.2011. The next date of hearing in the matter is 3.1.2012.

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3. In pursuance of the orders dated 17.10.2011 and 2.11.2011 of the Hon'ble High Court of Delhi, the above said representation dated 8.4.11 submitted by PPL has been considered in the Department of Fertilizers. Accordingly, it has been decided to release payment of concession to M/s PPL also, under the concession scheme for decontrolled phosphatic & potassic fertilizers, in terms of the office memorandum of even number dated 14.02.2011.

4. This issues in concurrence of IFD vide Dy.No.1208/AS&FA dated 17.11.2011



(Varinder Gupta)

Under Secretary to the Government of India

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Copy for information to :

- (i) Consultant (Finance)/DS (Budget)/AFA/SO (Finance)
- (ii) CA/P&AO, Department of Fertilizers
- (iii) M/s PPL.
- (iv) Sr. AD (FA Wing)/AD (Concession Wing)/AD(FA Wing)
- (v) NIC for uploading on the Department's website (fert.nic.in)/ AD (OL)
- (vi) Ms. Maneesha Dhir, Government Advocate, Delhi High Court, New Delhi.



(Varinder Gupta)

Under Secretary to the Government of India