

**Court No. - 3**

**Case :-** WRIT - C No. - 30277 of 2023

**Petitioner :-** M/S Ramkrishna Garg And Suppliers

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Nitin Chandra Mishra

**Counsel for Respondent :-** C.S.C.

**Hon'ble Siddhartha Varma,J.**

**Hon'ble Shekhar B. Saraf,J.**

Heard learned counsel for the parties.

The petitioner is a lease holder for the period commencing on 3.3.2021 and ending on 2.3.2031. It is the case of the petitioner that when the petitioner did not pay the monthly lease amount for the period starting from January, 2022 to June, 2023, then the OTP for the issuance of the eMM11 was stopped. Learned counsel for the petitioner states that the royalty could not be deposited on account of the fact that the GST registration was cancelled on 20 July, 2021. Learned counsel for the petitioner states that now when the GST registration has been restored on 26.07.2022, the petitioner was in a position to do the mining work. However, he submits that since now the OTP for the generation of eMM11 was not being granted to the petitioner the petitioner could not do the mining work and, therefore, could not pay the royalty. On 02.11.2023, we had passed the following order:-

*"Learned Standing Counsel states that even if the State is ready to take the amount due from the petitioner in instalments, the State shall not be able to issue the OTP for the removal of the minerals i.e. it shall not be able to provide the EMM-11.*

*Learned counsel for the petitioner, however, relying upon the Government Order dated 1st May, 2021 has stated that in the past the Government had because of the COVID-19 pandemic permitted*

*certain relaxations and he submits that if relaxation would be given, the petitioner would be able to deposit the amount, which was due from him in instalments. He further submits that if the EMM-11 is issued to him after the depositing the 1/3 amount as the first instalment, then he shall be able to do some business which would facilitate him in earning money enough to pay off the money due from him.*

*Learned Standing Counsel may take instructions in the matter.*

*Place this case on 29th November, 2021 as fresh."*

Learned Standing counsel states that there was no provision for the granting of the OTP without depositing of the entire amount which was due.

However, considering the fact that the petitioner had not been able to do the mining work because of the cancellation of the GST registration, which has now been restored, we consider it appropriate that if the petitioner deposits Rs. 30 lakhs within a period of one month then the OTP for the generation of the eMM11 shall be made available to the petitioner. The remaining amount along with the all the amounts which might have accrued shall be paid by the petitioner in the next three equal monthly installments.

In case the petitioner defaults in depositing the instalments within the stipulated period, it will be open for the respondents to re-initiate the recovery proceedings against the petitioner.

With the aforesaid observations/directions, the writ petition stands disposed of.

**Order Date :- 29.11.2023**

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