

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3039 of 2023

Applicant :- Shyam Chandra

Opposite Party :- Sri Avinash Singh, D.M., Ambedkar Nagar And Others

Counsel for Applicant :- Rajeev Kumar Tripathi

Counsel for Opposite Party :- Prabhakar Tiwari

Hon'ble Rajesh Singh Chauhan,J.

1. Heard learned counsel for the petitioner and Sri Prabhakar Tiwari, learned counsel for the opposite party No.2, who has filed short counter affidavit on behalf of opposite party No.2, the same is taken on record.

2. This Court has passed the order dated 09.10.2023, which reads as under:-

"1. Heard Sri Rajeev Kumar Tripathi, learned counsel for the petitioner and Sri Prabhakar Tiwari, learned counsel for the opposite parties.

2. Sri Prabhakar Tiwari has shown the photocopy of the demand draft Rs.3,52,484/- which has been paid to the petitioner and the petitioner has given the receipt on 07.10.2023, the same is taken on record.

3. Sri Prabhakar Tiwari has further submitted that in terms of the order of Writ Court, all the money has been returned to the petitioner.

4. However, learned counsel for the petitioner has stated that in terms of order of the Writ Court dated 27.03.2023, the petitioner is also entitled for the bank interest but the same has not been paid to the petitioner.

5. On that, Sri Tiwari has stated that he may be given some reasonable time to seek specific written instructions on that point.

6. List on 23.11.2023, within top ten cases.

7. By the next date of listing, Sri Prabhakar Tiwari shall seek specific written instructions from the opposite parties."

3. Admittedly, the principal amount to the tune of Rs.3,52,484/- has been refunded to the petitioner way back on 07.10.2023. So far as the payment of interest on delayed refund in terms of the order of the Writ Court dated 27.03.2023 is concerned, Sri Tiwari has drawn attention of this Court towards Annexure No.2 of the short counter affidavit, which is a letter dated 31.10.2023 preferred by the Assistant Commissioner, Commercial Tax, Division-1, Ambedkar Nagar addressing to

the Sub-Divisional Officer, Akbarpur, District-Ambedkar Nagar wherein it has been categorically indicated that the petitioner may not claim interest as per law.

4. Sri Tiwari, has stated that the amount in question was being kept by the Commercial Tax Department and the said amount was transferred to the account of the Tehsildar, Tehsil-Akbarpur, District-Ambedkar Nagar on 04.10.2023 and as soon as that amount was credited in the account of the Tehsildar, the Tehsildar has provided a demand draft of the aforesaid amount on 07.10.2023 itself to the petitioner.

5. Learned counsel for the petitioner has stated that the petitioner is entitled for interest in terms of law as well as in the light of order of the Writ Court and the order dated 31.10.2023 passed by the Commercial Tax Department is patently illegal and unwarranted.

6. Be that as it may, since the principal amount has already been paid to the petitioner and the payment of interest has been denied by the Assistant Commissioner, Commercial Tax, Division-I, Ambedkar Nagar by passing a reasoned order dated 31.10.2023, therefore, nothing remains to be adjudicated in the instant contempt petition.

7. Accordingly the instant contempt petition is ***dismissed***.

8. Notices, if any, stand discharged.

9. However, it is always open for the petitioner to challenge the aforesaid order dated 31.10.2023 before appropriate court of law/ authority for claiming interest, if the said interest is admissible to the petitioner.

[Rajesh Singh Chauhan,J.]

Order Date :- 23.11.2023

Suresh/