

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

OWP No. 1464/2013

- 1.M/S Sampark Traders through its Sole Proprietor
Puran Chand, Age 70 years, S/O Sh. Bua Ditta,
R/O F-154, Sabzi Mandi, Jammu.
- 2.M/S M. M. Enterprises through its Sole Proprietor
Raj Rani, Age 65 years, W/O Sh. Puran Chand,
R/O 188, Sabzi Mandi, Jammu.

.....Appellant(s)/Petitioner(s)

Through: Mr. Abhirash Sharma, Advocate.

- 1.State of J&K through Commissioner/Secretary
Power Development Department, J&K Govt.
Civil Secretariat, Jammu/Srinagar.
- 2.Chief Engineer,
Electric Maintenance & Rural Engineering, Jammu.
- 3.Executive Engineer,
Electric Maintenance & Rural Engineering,
Division-I, Parade Ground, Jammu.

..... Respondent(s)

Through: Mr. Ravinder Gupta, AAG.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT
(27.02.2025)

1. Petitioners-M/S Sampark Traders and M/S M. M. Enterprises, through the medium of this petition, seek a direction commanding the respondents to release the payment to the tune of Rs. 14,80,000/- along with interest @ 12% w.e.f. year 2007 till its realization in their favour, asserting therein that they, being proprietorship concerns for undertaking contracts for maintain/repair of electric transformers and supply of

street lights materials to the Government, had undertaken the work for repair of electric transformers in the Divisional Workshop of the respondents during the period 2007-08, 2008-09 and 2009-10 and worked upto their satisfaction.

2. It is stated by learned counsel for the petitioners that on account of repair of electric transformers and supply of street lights, petitioner No. 1 submitted bills to the tune of Rs. 6.50 lacs and petitioner No. 2 submitted bills to the tune of Rs. 8.30 lacs respectively to respondent No. 3-Executive Engineer, Electric Maintenance & Rural Engineering, Division-I, Jammu, for clearance, who in-turn wrote communication bearing No. MD/I/963-64 dated 15.06.2010 to respondent No. 2-Chief Engineer, Electric Maintenance & Rural Engineering, Jammu, for allotment of adequate funds, so that the liability towards the petitioners could be cleared.
3. It has been asserted that respondent No. 2, vide Office Order bearing No. CEEJ/Accts/460/2011 dated 03.11.2011 allotted additional funds to respondent No. 3 under sub-head "023-Maintenance and Repair" for the year 2011-12 with a clear direction to him to clear the liability to the extent of Rs. 6.50 lacs on account of material supplied by M/S Sampark Traders-petitioner No. 1 herein. Thereafter, respondent No. 2 issued an addendum bearing No. CEEJ/Accts/632 of 2012 dated 03.02.2012 reflecting therein that petitioner-firm M/S M.M. Enterprises is also deemed to have existed after the words M/S

Sampark Trader in the aforestated sanction order dated 03.11.2011, *ab initio*.

4. It is alleged by the petitioners that the respondents till date have not made any payment to them on account of work undertaken by them, against their admitted claims.
5. This petition was admitted to hearing by this court vide interim order dated 24.08.2020. However, despite numerous opportunities and even granting last and final opportunity subject to costs, the respondents did not file reply/counter affidavit, as such, the matter is taken up for final consideration.
6. Heard and considered.
7. It is borne out from the communication No. MD/I/963-64 dated 15.06.2010 made by respondent No.3 to respondent No.2 whereby a request was made to allot adequate funds in his favour so that he can clear the liability of material supplied by the petitioners-M/S Sampark Traders and M/S M.M. Enterprises, as payments for the repairs of transformers in the Divisional work-shop, in the amount of Rs. 6.50 lacs and Rs. 8.30 lacs respectively, having been accumulated during the financial years 2007-08, 2008-09 & 2009-10 as the supply could not be stopped from the firms, in order to meet the urgency on account of repairs of transformers & immediate restoration of power supply in the city.

8. Respondent No. 2 vide office Order No. CEEJ/Acctts./460 of 11 dated 03.11.2011 accorded sanction to the allotment of additional funds in favour of respondent No.3 under the Sub-Head-"023-Maintenance & Repairs" for the year 2011-12 providing that an amount of Rs. 6.5 lacs be released to clear the liability of petitioner's firm-M/S Sampark Traders and an Addendum dated 03.02.2012 was also issued by him reflecting that the petitioner-firm M/S M. M. Enterprises, is also deemed to have existed after the words M/S Sampark Traders *ab initio*.
9. From the aforestated communications of the respondents placed on record by the petitioners and not denied by the respondents, it is clear that the respondents owe a liability for an amount of Rs. 6.50 lacs to petitioner No. 1 and an amount of Rs. 8.30 lacs in favour of petitioner No. 2 and the same is alleged to have been withheld by the respondents.
10. Learned counsel appearing for the respondents submits that though the respondents could not file reply/counter affidavit to the writ petition, however, the admitted liabilities as projected by the petitioners are required to be verified with regard to the genuineness of the claims and also with regard to the part payments made, if any.
11. Having regard to the pleadings placed on record by the petitioners and there being no rebuttal to these pleadings on behalf of the respondents and the submissions urged at the

Bar, the petition is disposed of with a direction to the respondents to release the admitted liability in the amount of Rs. 6.50 lacs (rupees six lacs fifty thousand only) in favour of petitioner No. 1-M/S Sampark Traders and an amount of Rs. 8.50 lacs (rupees eight lacs fifty thousand only) in favour of petitioner No. 2-M/S M. M. Enterprises within a period of two months from the date a copy of this order is made available to them, subject to verification of the bills and the payments made already, if any. It is further ordered that in case, the admitted liability, on proper verification, is not liquidated by the respondents within the provided period of two months, the same shall carry simple interest @ 10% after the period of two months' lapse.

12. The writ petition stands disposed of. No costs.

(M A CHOWDHARY)
JUDGE

JAMMU
27.02.2025

Shivalee

Whether the order is speaking :	Yes / No
Whether the order is reportable:	Yes / No