



2026:AHC:210686

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 30136 of 2013

Eikon Sugar Mills Pvt. Ltd.

.....Petitioner(s)

Versus

State of U.P. and 6 Ors.

.....Respondent(s)

Counsel for Petitioner(s)	: Indra Bhan Yadav, Pushpita Bisht, Sandeep Kumar Srivastava
Counsel for Respondent(s)	: Alok Kumar Srivastava, C.S.C., R.k .srivastava, Shyam Narain, Sudhanshu Narain, Yogendra Srivastava

Reserved on 28.9.2026
Delivered on 8.10.2026

Court No. - 36

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. This is a case arising out of an issue of liability on the petitioner i.e a purchaser of a slump sale.
2. A sugar factory in name and style of M/s Deoria Sugar Mills Ltd, was running in huge loss, therefore, in order to revive it, it was transferred to U.P. State Sugar and Cane Development Corporation, Ltd. in the year 1998.
3. Subsequently, it was decided to sell said sugar mill owned by the U.P. State Sugar and Cane Development Corporation, Ltd. to private a entity and accordingly, above referred sugar factory was purchased by the petitioner in a slump sale being a selected bidder i.e. Eikon Sugar Mills, Pvt. Ltd. i.e. the petitioner and a tripartite agreement was entered into

between the parties. Its Clause 2.7 being relevant for adjudication of present case is reproduced hereinafter:

“2.7 It is hereby further agreed between the Parties that all contingent liabilities and legal cases pending in respect of the Unit, shall be transferred by the Seller to the Purchaser and the Purchaser is solely liable in respect of such contingent liabilities from the Signing Date and the Seller shall have no liabilities whatsoever in such respect.”

4. Earlier, the Workmen have approached the Labour Court in R.D Case No 15 of 2006 which was finally decided on 7.6.2007 and recovery of amount of Rs.1938486/- was determined.

5. Matter remained pending and no immediate orders were passed for execution. Later on, on basis of orders passed by this Court, recovery citation was issued to recover aforesaid amount from petitioner i.e. purchaser which is challenged in the present Writ Petition. Aforesaid recovery citation is mentioned hereinafter:

“कृपया उपर्युक्त विषयक अपने कार्यालय के पत्र संख्या-2630/संग्रह दिनांक 10.05.2013 का संदर्भ लेने का कष्ट करें, जिसके द्वारा आपने उपर्युक्त विषय के सम्बन्ध में मेसर्स-उ०प्र० राज्य चीनी व गन्ना विकास निगम लिमिटेड देवरिया के स्थान पर मेसर्स इसकाँन शुगर मिल्स प्रा०लि० के नाम रुपया-19,38,486.00 की धनराशि की वसूली हेतु संशोधित वसूली प्रमाण-जारी करने की अपेक्षा की है। उपर्युक्त के सम्बन्ध में आर०डी०वाद संख्या-15/2006 में इस कार्यालय द्वारा जारी वसूली प्रमाण-पत्र संख्या-8042-44/जी०आर०आर०डी०-15/2006 दिनांक 05.07.2007 के क्रम में आपकी अपेक्षानुसार वाद से सम्बन्धित श्रमिकगण सर्वश्री श्रीकान्त, द्वारिका, विजयी, उमेश, बनारसी एवं विश्वनाथ के कुल बकाये वेतन की धनराशि रुपये-1938486.00 को उन्हें भुगतान कराने हेतु उ०प्र० औद्योगिक विवाद अधिनियम-1947 की धारा-6-एच 0-(1) के अन्तर्गत (समय-समय पर संशोधित) राज्य सरकार द्वारा प्रदत्त अधिकार, जिसे राज्य सरकार ने उक्त अधिनियम की धारा '11-ए' के अधीन राज्यादेश द्वारा प्रत्यायोजित (डेलीगेट) कर दिया है, का प्रयोग करते हुए मेरा आपसे निवेदन है कि उक्त धनराशि रुपया-19,38,486.00 (रुपया-उन्नीस लाख अड़तीस हजार चार सौ छियासी मात्र) को मेसर्स इसकाँन शुगर मिल्स प्रा०लि० के सेवायोजकों से भू-राजस्व की भांति वसूली कराकर बैंक ड्राफ्ट के माध्यम से इस कार्यालय को भेजने का कष्ट करें। उक्त के अतिरिक्त यदि कोई वसूली प्रभार देय हो तो उक्त की वसूली भी सेवायोजकों से की जाय।”

6. Sri S.B.Singh, Advocate appearing for Sri I.B.Yadav, learned counsel for the petitioner submitted that determination of recovery was prior to agreement entered into between parties i.e prior to sale, therefore, it could not be a liability of the petitioner, but liability would fall on the State i.e U.P. State Sugar and Cane Development Corporation, Ltd.

7. Learned counsel for the petitioner in support of his submissions has placed reliance on judgement passed by Supreme Court in ***Wave Industries Pvt. Ltd. vs. State of U.P. & Ors, 2022 SCC Online SC 1721.***

Relevant paragraphs being 9 to 18 are reproduced hereinafter:

“9. Clause 2.6 speaks of transfer of contingent liabilities and it provided that all contingent liabilities and legal cases shall be transferred by the seller to the purchaser and purchaser is solely liable in respect of such contingent liabilities from the signing date and the seller shall have no liabilities whatsoever in such respect. Clause 2.6 reads as under:—

“2.6 It is hereby further agreed between the parties that all contingent liabilities and legal cases pending in respect of the Unit, shall be transferred by the Seller to the Purchaser and the Purchaser is solely liable in respect of such contingent liabilities from the Signing Date and the Seller shall have no liabilities whatsoever in such respect.

10. Clause 12 speaks of payment of taxes and stamp duty and it is stated that after signing date the purchaser shall be liable and responsible for all obligations or liabilities in respect of the operations and activities of the unit after the signing date. The following sub-clauses of Clause 12 being relevant are extracted:—

“12.1 The purchaser shall save as herein expressly provided, bear, pay and discharge all assessments, rents, taxes, outgoing and impositions of whatsoever nature relating or pertaining to the operations and activities of the Unit pertaining to the period after the Signing Date. The Purchaser shall be liable and responsible for all obligations or liabilities arising from or in respect of the operations and activities of the Unit of the Seller after the Signing Date.

12.2 The purchaser shall bear, pay and discharge all liabilities, obligations, assessments, rents, rates, taxes, outgoings and impositions of whatsoever nature relating or pertaining to the operations and activities of the after the signing date.

12.3 Save and except as herein otherwise provided, the Purchaser shall bear and pay the stamp duty, registration charges and sales tax or any other applicable tax, if any payable, on or in respect of the Transfer of the Unit.

12.4 Capital Gains Tax, if any payable in connection with the Transfer contemplated under this Agreement, shall be borne by the Seller.”

11. The sale deed was executed on 4.10.2010 for a total consideration of Rs. 13.94 crores and the agreement dated

17.7.2010 was made part of the sale deed. Clause 8(d) of the sale deed reads as under:—

“8(d) All taxes, levies, cesses or any charges in respect to the Unit/Land, whether levied by a government authority, such as municipal or property tax that are due up to the date of Agreement (“Signing Date”) have been paid in full by seller.

12. Further Clause 9 of the sale deed reads as under:—

“9. The Seller shall be liable to bear all assessments, rents, rates, taxes outgoing and imposition of whatsoever nature relating or pertaining to the Unit up to the Signing Date and thereafter, the same shall be the liability of the Purchaser.

13. In the speaking order dated 7.6.2016, the appellant's representation was rejected and the liability of duty, interest, and penalty, for the period prior to the date of purchase of the Amroha unit has been fastened on the appellant. The same is premised on clause 2.6 of the Slump Sale Agreement which stated that all contingent liabilities and legal cases pending in respect of the unit shall be transferred by the UPSSCL to the purchaser and the appellant as the purchaser shall be solely responsible in respect of the contingent liabilities on or after the signing date.

14. While rejecting the challenge of the appellant to the speaking order dated 7.6.2016, the High Court relied on clause 2.1 of the agreement and adverted to the expression “except excluded liabilities in the said clause” and held that it means liabilities claimed till signing date which are retained or settled by the Seller and since tax liabilities are not shown to be part of the “excluded liabilities” and since clause 2.4 provides for transfer of all contingent liabilities and legal cases in respect of the unit, to the purchaser, the recovery of such contingent liabilities after the signing date would only be from the purchaser and not from the seller. The appellant's challenge to the speaking order was thus negated and the writ petition came to be dismissed upholding the speaking order holding that the disputed liabilities are to be borne by the purchaser.

15. The questions to be answered here are (1) whether the dues arising out of the operations and activities of the sugar unit prior to the date of acquisition is to be borne by the seller and whether subsisting dues arising out of transactions occurring on dates prior to the sale, can be characterized as contingent or conditional liability or is it an accrued liability which may be computed or discharged at a subsequent date; (2) Whether a purchaser of a sugar mill could be treated as a dealer or service provider as an entity liable for discharging dues even if they had not been acting as a dealer or service provider or otherwise as an entity on whom, liability could be fastened; (3) Whether the speaking order is

vitiated, due to conflict of interest, a point which the impugned order does not indicate was argued before the high court.

16. There is no dispute that the liability towards the duty in question for the Amroha unit are in respect of business transactions for the period anterior to the signing date of the Slump Sale Agreement. Moreover assessment orders and recovery citations have been issued by the taxing authorities in the name of the UPSSCL. Therefore, can such liability for transactions prior to the Slump Sale Agreement dated 17.7.2010 be fastened on to the purchaser.

17. In Bharat Earth Movers v. Commissioner of Income Tax, Karnataka¹, on the issue of contingent liability, Justice R C Lahoti in his opinion, which has stood the test of time, on behalf of the three Judge Bench stated the following:—

“4. The law is settled : if a business liability has definitely arisen in the accounting year, the deduction should be allowed although the liability may have to be quantified and discharged at a future date. What should be certain is the incurring of the liability. It should also be capable of being estimated with reasonable certainty though the actual quantification may not be possible. If these requirements are satisfied the liability is not a contingent one. The liability is in praesenti though it will be discharged at a future date. It does not make any difference if the future date on which the liability shall have to be discharged is not certain.”

18. In the case in hand, the business liability for the Amroha unit had definitely arisen out of the operation of the unit during the period before the same was sold to the appellant, although the liability is to be quantified and discharged at a future date. When the liability is capable of being estimated with reasonable certainty, the liability is not to be treated as a contingent one and should be considered as a liability which may be discharged at a future date. Such being the position in law and the liability in question not being a contingent one, the same cannot in our view be fastened on the purchaser who were not operating the unit, prior to the Slump Sale Agreement dated 17.7.2010.”

(Emphasis Supplied)

8. By referring the above referred judgment, learned counsel for the petitioner submitted that recovery certificate issued against the petitioner be set aside.

9. Per contra, Sri A.K.Srivastava and Sri Shyam Narain, learned counsel for the respondents have referred the contents of conditions of sale,

specifically Condition No. 9 which is reproduced hereinafter that impugned liability was rightly imposed on the petitioner.

“9. The Seller shall be liable to bear all assessments, rents, rates, taxes outgoing and imposition of whatsoever nature relating or pertaining to the Unit up to the Signing Date and thereafter, the same shall be the liability of the Purchaser.”

10. I have considered the above submissions and perused the records.

11. The aforesaid fact of transfer of sugar mill to U.P. State Sugar and Cane Development Corporation, Ltd. and subsequently sold in favour of petitioner is not denied.

12. Interpretation of aforesaid two clauses is required to be considered in light of Wave Industries (Supra) that whether such liability would fall on the petitioner or not.

13. This Court has passed an interim order on 27.05.2013 and in pursuance of it, half of the amount was deposited by the petitioner and half of the amount was deposited by the U.P. State Sugar and Cane Development Corporation, Ltd.

14. There is no document on record, whether before the recovery citation was issued it was dealt with or not that whether petitioner would be liable to payment or not in reference to above referred clauses, which ought to have been considered, therefore, instead of deciding the issue referred above by this Court at first instance, it is directed that the competent authority at State level would consider it in light of subsequent events as well as taking note of referred clauses or any other relevant clause of the agreement.

15. In view of the above, it is observed that in case, petitioner files an application within a period of 4 weeks mentioning all details on facts as well as on law, concerned respondent will consider it in light of above observation and on basis of its outcome, if necessary, recovery citation can be issued against the petitioner, otherwise liability will fall only on the State Government.

16. Aforesaid exercise be concluded within a period of 6 months.

17. As referred above, since half of the amount has been deposited by the petitioner and half of the amount by the State Government, it is directed that said amount shall remain deposit subject to outcome of decision of the State Government as directed above.

18. With aforesaid observations and directions, this writ petition is disposed of.

(Saurabh Shyam Shamsbery,J.)

October 8, 2026
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