

Party Name : KUBER INDIA SALES PVT. LTD Vs SECRETARY FINANCE DEPTT. GOVT. OF TRIPURA & ORS

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA THE HONBLE MR. JUSTICE S.C.DAS

The writ petitioner by means of the writ petition has prayed for quashing of the order dated 12.11.2014 whereby the user-ID of the petitioner has been blocked by the State.

The admitted facts are that the petitioner-company is a Pvt. Ltd. Company having 13(thirteen) shareholders. Out of these, the major shareholders are Mrs. Kuku Kapoor holding 268250 shares and Mr. Rohit Kapoor having 6250 shares out of the total of 481250 shares. The Directors of the company are Mrs. Kuku Kapoor, Mrs. Arati Kapoor and Mr. Rohit Kapoor. The user-ID of M/s Kuber(India) Sales Pvt. Ltd. has been blocked and, therefore, no permit for sale can be issued in their favour.

We had called for the reply of the State and according to the State, M/s Agartala Rubber Industries, in which Mrs. Kuku Kapoor and Mr. Rohit Kapoor are partners, owes a sum of `1,19,53,990/- to the State and hence the user-ID of the petitioner-company has been blocked.

It is contended by Ms. Purkayastha that out of the amount `45.00 lakhs has already been paid.

The question is that can the user-ID of a separate company which is duly incorporated under the Indian Companies Act and which is a juristic entity within the meaning of the Indian Companies Act be blocked only because two of the shareholders of this company are partners in a firm which owes huge sums of money to the State Government.

On behalf of the State it is alleged that the company has been set up only with a view to continue the business without paying the dues of M/s Agartala Rubber Industries. Shri Nath alleges that if the corporate veil is pierced then it will be seen that this is nothing but a sham business.

At this stage we are not going to decide this question and the question shall be decided at a later stage. However, *prima facie* we are of the view that the action of the State deserves to be stayed for the following reasons:

- (i) The State has not even issued notice to the petitioner-company before taking the action.
- (ii) There is no decision by any authority of the State placed on record that any inquiry was conducted whereby the corporate veil has been pierced.
- (iii) Other than taking a defence of a sham company prior to blocking the user-ID there is no decision on the file that the company is a sham company.

It is not disputed that the company is doing business and is paying its taxes. Assuming that Agartala Rubber Industries owes a lot of money to the State we are doubtful whether this money can be recovered from M/s Kuber(India) Sales Pvt. Ltd. In view of the above discussions the impugned order dated 12.11.2014 is stayed and the user-ID of the petitioner-company shall be unblocked with all consequences.

It is however made clear that this order is only in respect of the dues payable by Agartala Rubber Industries but if the company defaults in payment of any taxes or dues then the revenue shall be entitled to take any action in accordance with law.

Keeping in view of the nature of the dispute, the main writ petition shall be taken up for final hearing on **08.04.2015**.

CM Application accordingly stands disposed of.