

In the High Court of Judicature at Madras

Dated : 17.12.2015

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.39691 of 2015

Mr.A.Sampath

...Petitioner

Vs

The Superintending Engineer
(TANTRANSCO), General
Construction
Circle-I, No.A-10, TVK Industrial
Estate, Chennai-32.

...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the respondent in Lr.No.SE/GCC-1/CNI/ DFC/AO/APS/D.../2015 dated -8.2015, quash the same and consequently direct the respondent to charge interest on the excess payment made to the petitioner considering the explanation dated 23.10.2015 and thereon to repay the amount deducted under the head of interest.

For Petitioner : Mr.S.N. Ravikumar
For Respondent : Mr.P.Gunaraj

ORDER

Mr.P.Gunaraj, learned Standing Counsel accepts notice for the respondent. Heard the learned counsel for the petitioner. By consent, the writ petition itself is taken up for final disposal.

2. By the impugned order, the respondent informed the petitioner that the special audit had pointed out in their report that a sum of Rs.16,79,257/- has been paid to the petitioner wrongly vide cheques dated 14.7.2011 and 20.10.2011 and the said sum had to be recovered from the petitioner along with interest. The respondent further informed the petitioner that the first and final bill for K2 agreement has been received by the office of the respondent for an amount of Rs.36,71,046/- and that the double payment in a sum of Rs.16,79,257/- along with interest of Rs.13,66,411/- from the date of payment till 30.6.2015 works out to Rs.30,45,668/-. On the above facts, the petitioner was also informed that the audit amount of Rs.30,45,668/- had been recovered from the petitioner's K2 agreement bill and a sum of Rs.2,94,985/- will be released to the petitioner after receipt of funds from the headquarters.

3. The petitioner would state that the impugned order of the respondent deducting a sum of Rs.16,17,257/- together with interest at Rs.13,67,411/- for double payment shows exorbitant rate of interest. Further, the respondent has decided to deduct the amount for the mistake on the part of the officials of the respondent and the petitioner has no role in making the double payment. Immediately after receiving the impugned order of the respondent, the petitioner submitted a representation with a request that he is ready to pay interest at bank rate and it has not yet been considered by the respondent. Further, the respondent has unilaterally passed the impugned order without prior notice and without affording an opportunity to the petitioner nor conducting any enquiry.

4. On a perusal of the impugned order, it is seen that the same has been passed without issuing a show cause notice to the petitioner and without even taking into consideration the plea raised by the petitioner that he is willing to pay interest at bank rate.

5. As rightly pointed out by the learned counsel for the petitioner, the double payment was not on account of any fault committed by the petitioner. Therefore, the respondent Board is not justified in demanding interest at such exorbitant rate and there should be some reasonableness in the approach of the respondent. Furthermore, it is not known as to under what provision, the impugned demand for interest is made. Even assuming that there has been a double payment on account of the mistake committed by the officials of the respondent Board, which was found only during the special audit, those officers alone should be taken to task. Undoubtedly, the petitioner, having retained such amount for a reasonable length of time, would be required to pay interest not at the rate specified by the respondent.

6. For the reasons stated above, the writ petition is partly allowed and the impugned order to that extent is set aside. There will be a direction to the respondent to consider the petitioner's representation dated 23.10.2015 on merits, afford an opportunity of personal hearing and pass appropriate orders in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Superintending Engineer (TANTRANSCO),
General Construction Circle-I,
No.A-10, TVK Industrial Estate,
Chennai-32.

+ 1 cc to Mr.S.N. Ravikumar, Advocate SR.68052
+ 1 cc to Mr.P.Gunaraj, Advocate SR.68055

SVI (CO)
EU 05.1.16

WP.No.39691 of 2015



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