

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**CONTEMPT CASE NO.1393 of 2014 &
W.V.M.P.No.2958 of 2014 &
W.V.M.P.No.1612 of 2015
IN W.P.NO.22249 OF 2014**

Between :

M/s. UWT Projects Limited,
Rep., by its Managing Director Sri S.Sanjeeva Reddy,
S/o.Sri Mal Reddy, R/o.Flat No.9, HIG II,
Block 14, Baghlingampally, Himayathnagar,
Hyderabad.

.. Petitioner

and

Mr. K. Srinivas S/o.Not Known,
rep., by Senior Branch Manager,
The National Small Industries, Corporation Limited,
203, Sri Dattasai Complex, RTC X Roads,
Hyderabad – 500 020 & another

.. Respondents

DATE OF JUDGMENT PRONOUNCED : 24.07.2015

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SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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1. Whether Reporters of Local Newspapers : Yes / No
may be allowed to see the Judgments ?

2. Whether the copies of judgment may be : Yes / No
marked to Law Reporters/Journals

3. Whether Their Lordship wish to : Yes / No
see the fair copy of the Judgment ?

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

**CONTEMPT CASE NO.1393 of 2014 &
W.V.M.P.No.2958 of 2014 &
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IN W.P.NO.22249 OF 2014**

COMMON ORDER :

Heard the counsels for respective parties.

2. The Vacate Stay petitions in W.P.No.22249 of 2014 are posted before this Court, as per the order of the Hon'ble The Chief Justice.

3. The petitioner was involved in construction of sub-stations and relative aspects. On 05.05.2011, the petitioner submitted an application to the National Small Industries Corporation Limited (1st respondent) for providing financial assistance for procurement of raw material, steel and electrical goods. On 06.05.2011 an agreement was entered into between the petitioner and 2nd respondent and on 30.11.2011, the agreement was executed. Initially, the financial assistance was fixed at Rs.3 Crores. In terms of the contract the petitioner was required to provide bank guarantees to the extent of financial assistance. In terms of this agreement, the 1st respondent agreed to pay the amount to the raw material, steel and electrical goods purchased by the petitioner which has to be remitted within a period of 90 days. For this period, 1st respondent charges interest. In the said manner, it is a running account with an outer limit of Rs.3 crores. This financial limit was subsequently, enhanced to Rs.5 Crores.

4. The 1st respondent was alarmed by the irregular

maintenance of account and was pursuing the matter with the petitioner for regularizing the account. On 30.07.2014

e-mail message was sent by the 1st respondent to the petitioner directing him to regularize the account by 10.08.2014 failing which, without further notice, it would invoke the bank guarantees. However on 01.08.2014 the

1st respondent invoked the bank guarantees.

5. Challenging the invoking of bank guarantees, W.P.No.22249 of 2014 is filed. It was contended that in terms of the notice dated 30.07.2014 the petitioner was granted time till 10.08.2014 and even before the time expired, question of invoking the bank guarantees does not arise and the action of the 1st respondent was arbitrary and discriminatory and amounts to illegal exercise of power.

6. On 05.08.2014 this Court passed order in W.P.M.P.No.27919 of 2014 in W.P.No.22249 of 2014 which reads as under :

“As per the terms of the agreement, the petitioner was required to furnish bank guarantee. In addition to the furnishing of bank guarantees of various descriptions from various dates, the petitioner has also given two promissory notes of Rs.3,00,000/- (Rupees three lakhs only) each in terms of the agreement. The approved loan limit was Rs.5 crores. On 30.07.2014, an e-mail was sent to the petitioner directing the petitioner to regularize the loan account, as it is outstanding for a long time and time was granted till 10.08.2014 for regularizing the loan account. However, on 01.08.2014, the first respondent addressed a letter to the second respondent informing the second respondent that the first respondent is invoking the bank guarantees. This is assailed in this writ petition.

Learned Senior Counsel appearing for the petitioner, Sri A. Sudarshan Reddy, submits that the petitioner is willing to regularize the account as early as possible and that since he has already executed two promissory notes for an amount of Rs.6,00,000/- (Rupees six lakhs only), the interests of the first respondent are sufficiently protected and that the time granted on 30.07.2014 has not expired and, therefore, invoking the bank guarantees even before the time granted expire amounts to arbitrary exercise of power and is illegal.

Having regard to the submissions made, there shall be interim stay of all further proceedings as prayed for, subject to the petitioner regularizing the loan account with the first respondent before 10.08.2014 by paying the amount that is due over and above Rs.5 crores and subject to the petitioner renewing the bank guarantees, which are due to expire, as and

when the due date of expiry arises, for a further period of three (3) months.”

7. In terms of the order passed on 05.08.2014, the petitioner was granted time till 10.08.2014 to regularize the account and if only the petitioner regularizes the account by that date, invoking of bank guarantees would be stayed. However as it now turned out that regularization was not done as directed by this Court by 10.08.2014 and on 26.08.2014, the bank guarantee was en-cashed.

8. Alleging violation of the orders passed by this Court, this contempt case is filed. During hearing of the contempt case, the petitioner came forward to pay the amount as worked out and sought for some more time. Accordingly, time was granted enabling the petitioner to pay the amount to the 1st respondent as well as the bank which has granted the bank guarantees who are considerate on the said request. Both the 1st & 2nd respondents were willing to re-negotiate the issue of restoring the bank guarantees subject to petitioner paying an amount of Rs.25 lakhs which was the loss caused to the petitioner's banker. In terms thereof the petitioner had to pay Rs.25 lakhs. This Rs.25 lakhs is the money arrived at, because the 2nd respondent has agreed to remit only Rs.4,75,00,000/- and Rs.25 lakhs was intended for adjustment by the 2nd respondent bank. The banker of the petitioner agreed to furnish fresh bank guarantee provided the petitioner pays the balance amount of Rs.25 lakhs. On this issue, the matter under went several adjournments. Only today, when the matters are taken up, learned counsel for the petitioner informed that few days back, the petitioner paid Rs.10 lakhs and today he has deposited another Rs.15,39,000/- which also takes care of the interest payable to the petitioner's banker for the delay in making payment of Rs.25 lakhs.

9. Whether the payment made by the petitioner today is acceptable to the petitioner's banker and whether the Bank guarantees

can be reissued and whether the

1st respondent would remit back the amount of Rs.4,75,00,000/- for issuance of bank guarantee by the petitioner's banker are the matters which are for consideration by the respective parties.

10. In so far as, the vacate petitions filed by the respondents in the writ petition is concerned, as noticed above, the stay granted by this Court was conditional i.e., payment of difference of amount before 10.08.2014 and admittedly, the difference of amount was not paid before 10.08.2014. Whether the petitioner was having genuine cause for non-payment of amount before 10.08.2014 and whether the petitioner was not having the details of amount of difference payable to regularize the account before 10.08.2014 cannot be gone into at this stage. Since admittedly, no petition was filed seeking extension of interim order granted on 05.08.2014, the stay automatically stands lifted on failure of compliance of condition imposed therein. When the stay is not in operation after 10.08.2014, it cannot be said that by encashing the bank guarantees, the respondents have committed the contempt of the orders of this Court.

11. Having regard to the above, the Contempt Case is dismissed and accordingly, the WVMP.Nos.2958 of 2014 & 1612 of 2015 are disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this contempt case shall stand dismissed.

P.NAVEEN RAO,J

24th July, 2015.

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