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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CM No.27080/2015 in W.P.(C) 3455/2015

ELECTROSTEEL CASTINGS LIMTED ..... Petitioner

Through: Mr. Gopal Jain, Sr. Adv. with Mr. Gaurav Juneja & Mr. Vaibhav Choudhary, Advs.

Versus

UNION OF INDIA & ANR ..... Respondents

Through: Mr. Anurag Ahluwalia, CGSC with Mr. A. Mukherjee & Mr. Prashant Ghai, Advs. for UOI.

Mr. Sandeep Sethi, Sr. Adv. with Mr. Gp. Cpt. Karan Singh Bhati, Advs. for CIL & BCCL.

Mr. Yashraj Singh Deora & Ms. Shreya Agarwal, Advs. for R-3.

AND

\+ W.P.(C) 11092/2015 & CM No.28746/2015 (for stay)

ELECTROSTEEL CASTINGS LIMITED ..... Petitioner

Through: Mr. Gopal Jain, Sr. Adv. with Mr. Gaurav Juneja & Mr. Vaibhav Choudhary, Advs.

Versus

UNION OF INDIA & ORS ..... Respondents

Through: Mr. Anurag Ahluwalia, CGSC with Mr. A. Mukherjee & Mr. Prashant Ghai, Advs. for UOI.

Mr. Sandeep Sethi, Sr. Adv. with Mr. Gp. Cpt. Karan Singh Bhati, Advs. for CIL & BCCL.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **30.11.2015**

CMs No. 28747/2015 & 28748/2015 (both for exemptions) in W.P.(C) No.11092/2015.

1. Allowed, subject to just exceptions.

2. The applications are disposed of.

CM No.27080/2015 (of the petitioner for directions) in W.P.(C) No. 3455/2015

3. The senior counsel for the applicant under instructions states that since fresh W.P.(C) No.11092/2015 has been filed, this application is not pressed .

4. Dismissed as not pressed.

W.P.(C) No.11092/2015

5. The petition impugns the order dated 26th March, 2015 of the Nominated Authority (NA) under Section 6 of the Coal Mines (Special Provisions) Act, 2015 in the matter of disposal of coal stock in respect of Schedule II coal mines. The petition axiomatically seeks a direction to the respondent No.3 Steel Authority India Ltd. (SAIL) being the subsequent allottee of the coal mine of which the petitioner was the prior allottee, to

transfer the sale proceeds of the coal stock to the petitioner after the same is sold or consumed itself by the respondent No.3 SAIL.

6. Having *prima facie* not found any merit in the petition, the senior counsel for the petitioner has been heard at length.

7. The petitioner had challenged the same order dated 26th March, 2015 earlier also in W.P.(C) No.3455/2015 which was disposed of vide order dated 13th April, 2015.

8. The order dated 26th March, 2015 required the prior allottees as the petitioner to remove the coal stock within a period of seven calendar days i.e. by 8th April, 2015 and further provided that upon the failure of the prior allottee to remove the said coal stock by 8th April, 2015, the subsequent allottee, as the respondent No.3 SAIL is in the present case, shall be entitled to dispose of such stock of coal and appropriate the sale proceeds to the extent to recover any cost incurred in removal, storage, sale and disposal of such coal stock and pay the remaining sale proceeds to the NA.

9. In the order dated 13th April, 2015 in the earlier writ petition filed by the petitioner, the petitioner only pressed for extension of time for removal of the coal stock and the said petition was disposed of by extending such

time and leaving open the question whether the money received from the sale proceeds, in the event of the petitioner not being able to so remove the coal stock, enure to the benefit of the petitioner, to be examined if and when the sale takes place.

10. Suffice it is to state that the petitioner did remove the coal stock within such extended time also and the coal stock remains in the coal mine which since stands allotted to respondent No.3 SAIL.

11. It has as such been enquired from the senior counsel for the petitioner as to how the petitioner can maintain a second petition entailing the same challenge to order dated 26th March, 2015 inasmuch as as per the order dated 13th April, 2015 in the earlier petition, the petitioner is now only entitled to claim the sale proceeds as and when the sale happens and which sale has not happened till now.

12. The senior counsel for the petitioner has contended that the petitioner in this petition is challenging the order dated 26th March, 2015 "insofar as it deprives the petitioner of its proprietory rights over the coal stock".

13. I am afraid, the challenge on all grounds has to be in one go and the petitioner having given up the challenge to the order dated 26th March, 2015 in the earlier petition cannot now urge that it is entitled to challenge

the same on some new ground, even if not taken in the earlier petition. The principles of *res judicata* and principles akin thereto as well as the principles of *estoppel* clearly apply.

14. The senior counsel for the petitioner has drawn attention to Section 10(5) of the Act aforesaid and especially to first proviso thereto and has contended that thereunder the remaining sale proceeds are to be deposited with the Central Government towards any compensation that may be payable to the owner of such movable property sold.

15. Though there is some ambiguity whether Section 10 including Sub-Section (5) thereof would apply to the coal stocks or applies only to movable property used in coal mining operations but the same is not necessary to be adjudicated for the purposes of the present petition. Suffice it is to state that even if the same were to be applicable, what has been provided by the order dated 26th March, 2015 to be done is not found to be in contravention thereof. As and when the respondent No.3 SAIL transfers the remaining sale proceeds of the coal stocks to the Central Government (and which powers are being exercised by the NA), it would be open to the petitioner to make a claim to the Central Government / NA and only if such claim is denied, would a cause of action accrue to the petitioner.

16. The senior counsel for the petitioner has then drawn attention to the letter dated 18th November, 2015 written by the petitioner to the respondent No.3 SAIL asking the respondent No.3 SAIL to inform whether it proposes to consume the coal stock itself or intends to sell the same. It is argued that no response thereto has been received and the respondent No.3 SAIL should be asked to respond thereto.

17. No obligation of respondent No.3 SAIL as a subsequent allottee of the coal mine to respond to a prior allottee of the subject coal mine is shown or borne out from any of the provisions. There is nothing to show that respondent No.3 SAIL would not act in accordance with the laws and the order dated 26th March, 2015.

18. Accordingly, leaving it open to the petitioner to make a claim if entitled to, for the sale proceeds once deposited with the Central Government / NA, the petition is dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

NOVEMBER 30, 2015
'gsr'..