THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.18413 of 2009

ORDER:

Petitioner prays for Mandamus directing respondents 1 and 2 not to hand over possession of land, building, plant and machinery in favour of the third respondent till the third respondent complies with the conditions stipulated in subject tender documents (issued in June 2009).

2. Petitioner seeks declaration that the action of respondents 1 and 2 in handing over possession of subject matter of the writ petition without complying the tender conditions as arbitrary and illegal.

3. On 07.06.2010, after hearing the learned counsel for parties, the following interim direction was issued:

> "Sri R. Raghunandan, learned counsel for Respondent No.3 stated that since under the agreement, he has to discharge the statutory liabilities of the industry in question prior to its sale, his client will file an appropriate affidavit undertaking to discharge these liabilities to enable him to take possession of the assets.
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> He requested for a week's time for this purpose. "

4. The third respondent places on record affidavit dated 24.08.2016. The affidavit is one in the nature of an undertaking of the third respondent to conform to the tender conditions. The Court finds it convenient to excerpt the following portion from the affidavit:

> "**3.** I humbly submit that the third respondent has accepted Cl.8 which clearly stipulates that all the statutory liabilities are payable by the third respondent and the third respondent undertakes to clear all the statutory liabilities of the unit of the petitioner. This respondent further undertakes that the dues which are subsisting as stipulated under the tender document and that are arising out of the liabilities as per the terms of tender document would be paid to the concerned authorities.
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> **4.** I humbly submit that the third respondent has already paid the entire sale consideration of Rs.1.78 Crores to the authorized officer. I hereby submit the table of dues as under the tender document and the sale certificate is issued:

Dues already paid by this respondent

SNO	Statutory Dues	Amount	Paid Amounts	Balance
1	EPFO, R.O. Kazipet	Rs.9,20,247/-	Rs.9,20,247/-	0
2	Electricity Bills	Rs.1,69,459/-	Rs.1,69,459/-	0

Dues which we undertake to pay

SNO	Statutory Dues	Amount	Paid Amounts	Balance
1	Gram Panchayat Property Tax	Rs.6,32,000/-	0	Rs.6,32,000/-
2	Due to VAT, CTO, J.H Circle	Rs.73,48,304/-	Rs.49,00,000/-	Rs.24,48,304/- But Liable to pay only Rs.17,25,683/-

Dues in respect of VAT, CTO, Jubilee Hills Circle will have to be paid to sum of Rs.17,25,683/- after deducting VAT refund amount of Rs.7,22,621/-

Dues which are disputed and pending before authorities for adjudication:

SNO	Statutory Dues	Amount	Paid Amounts	Balance
1	Excise Duty	Rs.31,19,986/-	0	Rs.31,19,986/- But not lilable to pay

It is submitted that the excise duty which is pending adjudication and the petitioner undertakes to pay subject to the orders passed by the authorities Appellate Deputy Commissioner holding against this respondent.

5. It is submitted that this respondent in all has paid a sum of Rs.2,37,89,706 to till date and a sum of Rs.23,57,683 is pending. Further, a sum of Rs.31,19,986 which is pending adjudication. This respondent undertakes to clear the dues. It is also to submit that in respect of the dues which are liable to be paid under the tender document as per clauses stipulated,

this respondent undertakes to pay the same. In view of the above the petitioner herein is filing this undertaking for the kind perusal of this Hon'ble court.

In view of the above it is therefore prayed that this Hon'ble court may be pleased to take the undertaking affidavit on record in the above writ petition and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case."

5. Mr. T. Niranjan Reddy and Mr. R. Raghunandan Rao, learned senior

counsel, request the Court to place the said undertaking on record and dispose of the writ petition.

6. The counsel consent to disposal of the writ petition by this order:

a) The undertaking of third respondent dated 24.08.2016 is accepted. The third respondent accepts liabilities of petitioner company, in terms of the tender conditions and the third respondent agrees to pay the amounts due to statutory authorities, workmen etc. by petitioner company.

b) Third respondent, being the purchaser of the subject matter of the writ petition, is entitled to step into the shoes of petitioner for the limited purpose of challenging levy and demand of dues by statutory authorities/workmen etc. subject to final outcome of such adjudication and settlement, the third respondent accepts to pay the amounts.

c) Respondents 1 and 2 are directed to notify to the statutory authorities that the liability to pay dues under respective enactments is accepted by third respondent and notices be sent to third respondent instead of petitioner.

d) The petitioner, if receives any notices from any authority, is given liberty to forward the notices by Registered Post Acknowledgement Due to third respondent for further action thereon.

The writ petition is disposed of as indicated above. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

August 29, 2016
DSK