HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 4042 of 2004

Order:

The petitioner is a Company which is engaged in construction and infrastructure developmental activities by constructing residential houses and flats to cater the needs of lower/middle income group of the members of "Sahara States" at Mansoorabad, Hyderabad. The petitioner-Company purchased bricks, sand, metal and stones for its construction activities from various suppliers. While so, the Regional Vigilance and Enforcement Officer inspected the premises of the petitioner-Company on 18.10.2001 and submitted a report on the same day. Based on the same, the third respondent issued a notice to the petitioner on 25.01.2002 directing the petitioner to produce the documents and other relevant proof of having paid royalty to the Government for the quantities mentioned in the said notice. The petitioner requested time on 13.02.2002 on the ground that the concerned officer was on sick leave and could not produce any documentary evidence. In those circumstances, the third respondent passed an order on 20.05.2002 directing the petitioner to pay an amount of Rs.14,19,006/- towards one time seigniorage fee with five times penalty, totaling to Rs.73,91,536/-. Challenging the said orders, the petitioner preferred an appeal to the second respondent, who dismissed the same on 18.03.2003. Aggrieved by the same, the petitioner preferred a revision to the first respondent, who dismissed the same on 17.01.2004. Challenging the said order of the first respondent, the present Writ Petition was filed.

2. At the time of admission of the Writ Petition, this Court passed an elaborate order on 05.03.2004 in WPMP No.5314 of 2004 granting interim stay on condition of the petitioner depositing an amount of Rs.14,19,006/- with the third respondent and, accordingly, the

petitioner deposited the said amount.

3. A perusal of the show cause notice, dated 25.01.2002, shows that the petitioner was stated to have consumed Stone and Metal Sand, Bricks and Stones in connection with its construction activity and the petitioner was asked to submit the following information.

> "(1) Statement showing the quantities of Minor Minerals received everyday at your project site from the beginning.
>
> (2) The Mineral Despatches permits issued by the Asst. Director of Mines and Geology/District Panchayat Officer of concerned District covering the Minerals supplied.
>
> (3) The details of Seigniorage Fee paid by your company."

4. Admittedly, though the petitioner sought time, the petitioner did not produce the necessary information. In those circumstances, a demand notice was issued by the third respondent on 20.05.2002 directing the petitioner to pay the normal seigniorage fee with five times penalty. Challenging the said demand the petitioner preferred an appeal. But, in the appeal also the petitioner did not produce the necessary information. The appeal was dismissed by considering the Full Bench decision of this Court in **L. Venkateswara Rao v. Singareni Collieries Company Limited**[1], with the following observations.

> "The contention of the appellant that it is liability of the supplies to pay the mineral revenue due to the Government and not the liability of the appellant company is not correct. It is the primary responsibility of the appellant to produce documentary evidence to the effect that the minor mineral used or consumed by them was covered with seigniorage as such the condition of the appellant cannot be agreed.
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> In view of the circumstances explained above as per powers conferred to the under signed rule 35 of APMMC Rules, 1966. The appeal filed by M/s. Sahara India Commercial Corporation Ltd., is hereby dismissed."

5. However, when the matter was taken in revision before the first respondent, the petitioner produced some bills and payment details made to the suppliers as Annexure-V and the same was not considered while disposing of the revision by the first respondent. The relevant portion of the order of the first respondent reads as follows.

> "The matter has been examined by Government in detail and a hearing was conducted on 22.11.2003. A representative on behalf of the petitioner Company has attended the hearing and put forth their arguments. According to Rule 26(3)(ii) of APMMC Rules, 1966 'if no documentary proof is produced in token of having paid the Mineral Revenue dues to the Government by any person who used or consumed or in possession of any mineral including the processed material he shall not withstanding anything contained in sub-rule(1); be liable to pay (5) times of normal seigniorage fee as penalty in addition to normal seigniorage fee leviable under the rules. Hence, Government do not find any valid reason to interfere with the proceedings of Director of Mines and Geology No.26902/MR.3/02, dated 18.03.2003 and the Assistant Director of Mines and Geology Lr.No.5732/VG/01, dated 20.05.2002 and hereby dismiss the Revision Application filed by M/s Sahara India Commercial Corporation Limited."

6. In view of the non-consideration of the documentary evidence produced by the petitioner, this Court is constrained to set aside the said order of the first respondent dated 17.01.2004 and the case is remitted to the first respondent for consideration of the case afresh on the basis of the material produced by the petitioner and pass appropriate orders in accordance with law within a period of three (3) months from the date of receipt of a copy of this order. The amount of Rs.14,19,006/- deposited by the petitioner with the third respondent pursuant to the interim orders of this Court shall abide by the result of the orders to be passed by the first respondent consequent to the remand.

7. The Writ Petition is, accordingly, allowed. However, in the circumstances, no costs.

8. As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. **RAMALINGESWARA RAO, J.**

Date: 22.03.2016

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[1] 1993(3) ALT 199 (FB)