THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 2280 OF 2011

O R D E R :

Proceedings dated 28.12.2010 issued by the 3rd respondent Post Master, HSG.1, Narasaraopet HO, Guntur District is challenged in this Writ Petition as being violative of Post Office Savings Bank (POSB) Rules.

The case of the petitioners is that they have been appointed as Standardized Agency System (SAS) agents to promote the NSC Scheme of the Government of India (Department of Posts) and as part of their job, they deposit the amounts collected from the persons concerned into the Post Office and, in return, they will earn commission being paid by the department.

While the things stood thus, the 3rd respondent has issued the proceedings dated 28.12.2010 stating that the petitioners have deposited more than the stipulated amount i.e. Rs.50,000/- at a time in a day in one account, during the year 2006-07 and 2007-08. As per the POSB Rules, if the deposit amount exceeds Rs.50,000/- in an account, they have to submit cheque(s) instead of cash, thus quoting, the 3rd respondent directed the agents, whose names are mentioned therein, to credit the excess paid commission to the department shown against their names, since those agents have deposited above Rs.50,000/- at a time in cash for which they are not eligible for commission. A default clause has also been incorporated that if the petitioners fail to pay the excess commission amount before 31.12.2010, the commission would be adjusted which they acquire from their future business with effect from 01.1.2011.

The grievance of the petitioners is that they have collected the deposits in excess of Rs.50,000/- in cash, ignorant of the POSB Rules and as a matter of fact, no objection has been taken by the post office concerned while accepting the deposits in cash and issuing NSC certificates. Hence, according to the petitioners, the impugned proceedings cannot be issued seeking to credit the commission earned for the said deposits made in excess of Rs.50,000/- to the department.

In the counter-affidavit filed by the 2nd respondent, while placing reliance on Rule 17(9) of the Post Office Savings Bank Manual Volume-II, it has been stated that any agent may accept cash not exceeding the authorized limit of Rs.50,000/- at a time from single investor. It has been further stated that since it was found that the excess commission was paid even for the deposits procured contrary to the POSB Rules, the said amount was sought to be recovered. Hence, it is prayed that the Writ Petition is liable to be dismissed.

Heard learned counsel for the petitioners as well as learned Standing Counsel for the respondents Ms. G. Rukmini.

At the outset, in the above factual backdrop, it is appropriate to examine Rules 17(9) and 17(3) of the Post Office Savings Bank, Manual, Volume-II, which are to the following effect:

> ***Rule 17(9)***: (i) The maximum limit of cash receipt books to be supplied to Small Savings Agents will be

Rs.50,000/- at a time. There will, however, be no restriction for accepting cash from a single investor subject to the maximum limit of Rs.50,000/-;

(ii) The agents shall never, under any circumstances, exceed the amount up to which a receipt form is valid for an investment or investments and they shall not make any alteration in the matter printed on the receipt form and counterfoil.

__Rule 17(13):__ (i) On sale of certificates presenting investment of provident, superannuation, gratuity and endowment fund money, funds of cooperative societies including co-operative banks, compensation money paid to displaced persons in the form of Savings certificates, court funds in the control of Government Officers or Local or statutory authorities or conversion to certificates of cash securities already pledged to Government Officers by contractors etc., or investments required to be made in small savings securities under any statue or by an express order of the Government or investments made by Institutions. Trusts, companies, associations, etc., or such other investments as may be notified by the Government in this behalf from time to time. On holding invested excess of the prescribed limit, if any commission is found paid to the authorized agent on the excess holdings, it should be recovered.

A perusal of Rule 17(9)(i) clearly shows that there is a restriction to accept cash from a single investor in excess of Rs.50,000/-. In the impugned order, there is no such allegation against any of the petitioners. What all has been stated is that they had deposited more than Rs.50,000/- by way of cash. In that view of the matter, Rule 17(9) has no application to the case of the petitioners.

So far as Rule 17(13) is concerned, the same is applicable only to the commission, which otherwise is not payable with respect to savings certificates specified therein to the specified categories. In the impugned notice of recovery, it is not even alleged that Rule 17(13) is violated. In other words, the facts of the present case neither reflects applicability of Rule 17(9) or Rule 17(13) nor even it is pleaded that any of the violations are applicable in the present facts of the case. We may also notice that at no point of time earlier to the impugned proceedings, either the petitioners were warned or noticed about non-acceptability of cash in excess of Rs.50,000/- nor there was any refusal of the department to accept the cash deposits that were procured by the petitioners. Even on that count, impugned proceedings to recover the commission already earned and paid to the petitioners is arbitrary and totally unjustified and thus cannot be sustained.

Hence, the impugned order is liable to be set aside. The Writ Petition is accordingly, allowed. No costs.

Consequently, the miscellaneous Applications, if any shall stand disposed of.

CHALLA KODANDA RAM, J

08th November 2016

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