

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.5915 of 2016

ORDER:

Challenge in this writ petition is to the demand notice dated 28.01.2016 issued by the Assistant Director of Mines and Geology, Kurnool.

By the said demand notice, the petitioner was called upon to pay normal seigniorage fee of Rs.21,48,307/- and five times penalty of Rs.1,07,41,535/-, aggregating to Rs.1,28,89,842/-. The petitioner states that pursuant to the show cause notice dated 17.07.2015, it filed a detailed explanation under its letter dated 17.08.2015 along with supporting material.

However, perusal of the impugned demand notice reflects that the Assistant Director of Mines and Geology did not state as to why the explanation and the material filed therewith were found to be unsatisfactory. He merely stated that the reply submitted by the petitioner did not show proof of payment of seigniorage fee for the material consumed in the unit. This reasoning reflects total non-application of mind. The petitioner deals with the finished product and only the raw material used by it would have to suffer seigniorage fee. However, the petitioner cannot be expected to produce the proof of the raw material used by it having suffered seigniorage fee. Once the petitioner gives details of the sources from which the raw material was procured, along with documentation, it is for the mining authorities to check with the sources as to whether proper seigniorage fee was paid on such raw material which was supplied to the petitioner. Ignoring this aspect of the matter, it is not open to the mining authority to insist upon the petitioner to produce the proof of payment of seigniorage fee on the raw material.

The documents filed by the petitioner, according to Smt. N. Shoba, learned counsel for the petitioner, disclose all the required details. However, as the Assistant Director of Mines and Geology did

not deal with these aspects of the matter and as his unreasoned and terse order is violative of the principles of the natural justice, all the more so as it visited adverse civil consequences upon the petitioner, this Court is constrained to set aside the demand notice dated 28.01.2016 at the admission stage. The Assistant Director of Mines and Geology, Kurnool, shall consider the petitioner's explanation dated 17.08.2015 along with the material filed therewith in accordance with law and take appropriate action in the matter. In the event an adverse order is proposed to be passed against the petitioner, reasons therefor shall be recorded in detail.

The writ petition is allowed to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

Date:17.03.2016

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