

IN THE HIGH COURT OF JUDICATURE OF MADRAS
DATED: 15.03.2019

CORAM:
THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.No.9762 of 2004

M/s.Binny Limited,
Rep. by its Company Secretary,
65, Armenian Street,
Chennai - 600001.

...Petitioner

Vs

1. The Board for Industrial and
Financial Reconstruction,
Jawahar Vyapar Bhawan,
No.1, Tolstoy Marg,
New Delhi - 110001.

2. National Insurance Company Ltd.,
No.3, Middleton Street,
Calcutta - 700071.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the proceedings of the 1st respondent made in Case No.48/93 dated 06.05.2003 and quash the said proceedings and consequently direct the 2nd respondent to pay the interest at 18% per annum on the sum of Rs.9.68 crores with effect from 10.10.1999 till 19.04.2001 and interest at 18% per annum on the accrued amount of interest from 19.04.2001 till the date of payment.

For Petitioner : Mr.Arun Dhanalpalan
for Mr.A.Jenasenan

For Respondents: Mr.J.Madana Gopal Rao, SCGSC
for R1

Mr.N.Vijaya Raghavan
for R2

O R D E R

The order under challenge in the present writ petition is to the proceedings of the 1st respondent made in Case No.48/93 dated 06.05.2003, wherein it was held that directions to the National Insurance Company for payment of interest cannot be granted, since the petitioner had given in writing to withhold the payment. Consequently, the prayer by the petitioner herein is for a direction to the National Insurance Company to pay interest at the rate of 18% per annum on the sum of Rs.9.68 crores with effect from 10.10.1999 till 19.04.2001.

2. In the affidavit filed in support of the writ petition, the petitioner herein had admitted that by their letter dated 08.01.2000, they had requested the National Insurance Company not to release the amount, in view of the attachments pending against it and had also undertaken that the petitioner will not claim any interest on the amount, even if the payment is delayed beyond ***10.01.2000** and as such, the prayer sought for in the writ petition seeking for interest inclusive of the period between 10.01.2000 till ***31.05.2000**, may not be justified. In view of the specific stand taken by the petitioner herein that they will not claim interest from 10.01.2000, it would be appropriate that this change in their stand be considered by the National Insurance Company afresh.

3. The learned Standing Counsel for the 2nd respondent also raised a doubt with regard to the petitioner's entitlement to claim interest, since after the award, the petitioner Company had demerged and split into various entities.

4. In the light of the above observations, the petitioner is granted liberty to make an appropriate representation before the 2nd respondent herein seeking for interest by excluding the period between 10.01.2000 till ***31.05.2000**. The petitioner shall also establish the status of the Company, as it stands today, with regard to their entitlement to claim interest. On receipt of such a representation, the 2nd respondent Company shall consider the representation on its own merits and pass appropriate orders, as expeditiously as possible, in any event, within a period of 12 weeks from the date of receipt of copy of this order. Such a decision shall be taken without reference to the impugned order passed by the 1st respondent in Case No.48/93 dated 06.05.2003.

5. Accordingly, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS V)
Dated : 11/04/2019

***Corrected as per order dated 20.08.2019
in WP No.9762/2004**

***Sd/-
Assistant Registrar (CS V)
Dated : 04/09/2019**

//True Copy//

Sub Assistant Registrar

jrs/hvk

To

**To be substituted the order
already dispatched on
14.06.2019**

1. The Board for Industrial and
Financial Reconstruction,
Jawahar Vyapar Bhawan,
No.1, Tolstoy Marg,
New Delhi - 110001.
2. National Insurance Company Ltd.,
No.3, Middleton Street,
Calcutta - 700071.

+1cc to Mr.N.Vijaya Raghavan, Advocate, S.R.No.*71587
+1cc to Mr.A.Jenasenan, Advocate, S.R.No.*70730
+1cc to Mr.J.Madhanagopal Rao, Advocate, S.R.No.24569

WP.No.9762 of 2004

SSV (CO)

RRS (29/04/2019)
GMY (06/09/2019)

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