IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.03.2021

Pronounced on : 01.04.2021

CORAM

THE HONOURABLE MR. JUSTICE **C.V.KARTHIKEYAN**

A.No.558 of 2021
in
O.A.No.314 of 2020
in
C.S.(Comm.Div.)No.187 of 2020

M/s.Sun TV Network Ltd.,
Rep.by its Authorised Signatory,
Mr.M.JyothiBasu
Murasoli Maran Towers,
73 MRC Nagar Main Road,
MRC Nagar, Chennai - 600 028.
... Applicant/Applicant/Plaintiff

Vs.

1.Sri Venkateswara Creations,
Rep by its Managing Partner,
Mr.Venkata Ramana Reddy
Plot No.6, H.No.8-3-988/6,
Shallvahana Nagar,
Near Satya Sai Nigamagamam, Srinagar Colony,
Hyderabad – 500 073.

2.M/s.Mango Mass Media Private Limited,
Rep by its Managing Director,
Mr.Ramakrishna Veerapaneni,
Plot No.2, Womens Co-operative Society, Road No.2,

Banjara Hills, Hyderabad – 500 034.

3.Star Suvarna,
Star TV Network,
Represented by its Authorised Signatory,
Bagmane Tech Park,
7th Floor, 66/1, 4th 'A' main road,
Byrappa Layout, SadguntePalya
CV Raman Nagar, Bangalore – 93.

...Respondents/Respondents/Defendants

Prayer in A.No.558 of 2021:- This application filed under Order XIV Rule 8 of O.S Rules read with Rule 169 of the Civil Rules of Practice read with Order 151 of C.P.C., to direct the registry to refund the entire amount of Rs.8,95,00,000/- (Rupees Eight Crore Ninety Five Lakhs only) with accumulated interest till the date of realization, in strict compliance of the order of this Honourable Court dated 11.09.2020.

For Plaintiff : Mr.ARL. Sunderasan, learned Senior Counsel,
For Ms.M.Sneha

For D1 : Mr.C.Prasana Venkatesh

For D2 : No appearance

For D3 : Ms.Simran

ORDER

Heard arguments advanced by Mr.ARL. Sunderasan, learned Senior Counsel for the applicant.

2.As a matter of fact, the matter came up earlier on 23.03.2021 and after hearing arguments, the following order was passed:

> *"13. The issue to be now decided as to whether the deductions by the Registry of 2% towards Government Commission, and of 0.2% towards audit fees and proposed deduction of 5% on the interest earned towards the Fixed Deposit as contemplated are permissible for a fixed deposit lying in a Nationalized Bank namely the Indian Bank High Court, Madras. The Registry claims that this these are standard deductions which have been followed from time immemorial and questions have never been raised. Rather it has been an accepted norm. Parties who had deposited such amounts and also learned counsels have, without any demur accepted such deductions and had never raised any protest.*

14. This issue having not arisen as a point to be decided naturally merits deep consideration. I would hold back final decision on that particular issue. However, pending that, I would direct that the plaintiff is entitled to receive the principal amount of Rs.8,75,31,000/- (Rupees Eight Crores Seventy Five Lakhs Thirty One Thousand only) which was deposited in Indian Bank on 21.09.2020 and also the accrued interest and permit the Registry to deduct 5% on the accrued interest amount, I would reserve the other issues for consideration, but the plaintiff can receive the aforesaid amount keeping this particular issue open for decision.

15. Registry may therefore return the principal amount of Rs.8,75,31,000/- (Rupees Eight Crores Seventy Five Lakhs Thirty One Thousand only) now under deposit in Indian Bank, High Court Branch together with accrued interest and also deduct 5% on the accrued interest as provided under Rule 37.

16. To repeat and reiterate, the stated deductions have been accepted by Mr.ARL.Sunderasan with much protest and only after re-assurance by the Court that, *as a point of law, the issue of proprietary of the deductions would be decided by the Court.*

17. The matter is held that for passing orders with respect to the validity or otherwise of the deductions of the amount deposited in Nationalized Bank as contemplated under Rules 37, 38 and 39 of the Appendix III of the Original Side Rules, Madras High Court.

18. Registry may pay back the stated amount as aforesaid at the earliest."

3.To repeat the facts which have already been stated in the order dated 23.03.2021, the plaintiff as per the directions of this Court was directed to deposit to the credit of the suit a sum of Rs.8,95,00,000/-. This was by order dated 18.08.2020. By a subsequent order dated 11.09.2020 the deposited amount was directed to transfer by the Registry to any Nationalized Bank.

4.The Registry placing reliance on Rules 38 and 39 of the Appendix – II of the Madras High Court Fees Rules, 1956 had deducted 2% from the deposited amount of Rs.8,95,00,000/- (Eight Crores and

Ninety Five Lakhs only) towards Government commission and also deducted a further 0.2% again from the amount deposited towards audit fees and had invested the balance of Rs.8,75,31,000/- (Eight Crores Seventy Five Lakhs and Thirty One Thousand only) in Indian Bank, High Court Branch on 21.09.2020.

5.The present application has been filed seeking refund of the entire amount of Rs.8,95,00,000/- together with accrued interest.

6.A Certificate of Funds had been enclosed wherein, it had been stated that a sum of Rs.8,75,31,000/- alone had been deposited and that principal amount can be returned with accrued interest. It was also stated that in accordance with Rule 37 of the Madras High Court Fees Rules, 1956, a further 5% shall be deducted on the accrued interest amount.

7.These deductions have been questioned by Mr.ARL.Sunderasen, learned Senior Counsel.

8. By order dated 23.03.2021 this Court had directed refund of the Fixed Deposit as available with the Indian Bank together with accrued

interest, subject to the deductions as contemplated under Rule 37 of Appendix-II of the Madras High Court Fees Rules, 1956 and had clarified that the issue of proprietary of the said deductions would be decided by the Court.

9.They are now discussed and determined.

10.The Rules of the High Court of Judicature at Madras in its Original Jurisdiction, 1956 had been published by the Madras Bar Journal and brought out in a book form in 1972.

11.The Rules 37, 38 and 39 of Appendix – II of High Court Fees Rules, 1956 as it originally stood were as follows:

"Fees to be levied by the Registrar of the High Court.

Rules	***Description of document or proceeding***	***(Amt.) Rs.***	***P***
37	Upon all interest actually received on the securities standing in the name of the Registrar, High Court, for every Rs.100.	2	50
38	Upon all moneys received for investment with privity of the Registrar of the High Court, for every Rs.100. Explanation:- The term 'investment' occurring in this item would mean investment in Government Securities through the Reserve Bank of India or any Scheduled Bank or in	1	00

Rules	Description of document or proceeding	(Amt.) Rs. P
	such private institution as may be specified in the order of the Court directing the investment.	
39	For the auditing of the accounts of the Suitors Fund annually, by the Examiner of the Local Fund Accounts, Madras, upon all moneys paid to the Reserve Bank of India, Madras, with the privity of the Registrar, High Court, decimal two per cent.	

These rules were substituted by P.Dis.144/73, Tamil Nadu Government Gazette, dated 27.06.1973, Part V, Page 79.

12.The substituted rules by P.Dis.144/73 was as follows:

"In the High Court Fees Rules, in Appendix II thereof, for the existing items 37 to 39, the following shall be substituted; namely :-

Rules	Description of document or proceeding	(Amt.) Rs. P
37	*Upon all interest actually received on the securities standing in the name of the Registrar, High Court, for every Rs.100.* *i).Provided that not such fees shall be levied in cases where,under order of Court, such securities are encahsed prior to their dates of maturity and where the proceeds by such encashment are less than their face value.* *(ii).Provided that the Chief Justice may, by order, waive the levy of the Commission, or reduce the rate thereof in any case, on the ground that the money or securities belong to a charitable trust or on any other ground*	*2 50*

Rules	Description of document or proceeding	(Amt.) Rs. P
	which he may considered proper.	
38	*Upon all moneys received for investment with privity of the Registrar of the High Court, for every Rs.100.* *Provided that no commission shall be levied for the investment of accumulated interest on investments already made or for the reinvestment of securities which have matured.* *Explanation:- The term 'investment' occurring in this item would mean investment in Government Securities through the Reserve Bank of India or any Scheduled Bank or in such private institution as may be specified in the order of the Court directing the investment.*	*1 00*
39	*For the auditing of the accounts of the Suitors Fund annually, by the Examiner of the Local Fund Accounts, Madras, upon moneys paid to the Reserve Bank of India, Madras, with the privity of the Registrar, High Court, decimal two per cent.* *Provided that no such fees shall be levied in cases where, under orders of court, the securities are encashed prior to their dates of maturity and where the proceeds by such encashment are less than their face value".*	

13.Subsequently, the amounts Rs.2.50 given in Rule 37 and Re. 1.00 given in the Rule 38 were substituted by R.Dis.No.86/94, SRO C-18/94, published in the Tamil Nadu Government Gazette, dated

05.10.1994, Issue No.39, Part III, Section 2, Page 45, to Rs.5.00 and Rs.2.00 respectively.

14.It is thus seen that even in the 1956 rules, it had been provided that for every money received for investment in any Schedule Bank, fees were levied. Therefore, the contentions of Mr.ARL.Sundaresan, learned Senior Counsel, that levy of fees is unjustified cannot be accepted since this has been the continuous practice from 1956. As a matter of fact, even in Appendix – II of the High Court Fees Rules, 1927 there was a levy by the Registrar of the High Court.

15.Rules 43 and 44 of Appendix – II of the High Court Fees Rules, 1925 were as follows:

Rules		***Rs. A. P***
43.	Upon all monies paid to the Secretary and Treasurer of the Imperial Bank of India, with the privity of the Accountant of the High Court, for every hundred rupees	1 0 0
44.	Upon all interest accruing on the said monies or investments thereof, for every hundred rupees	2 8 0

16.It is thus seen that, as a concept, Rules 37 and 38 as they stand today were originally in vogue even in the Original Side Rules of the Madras High Court, 1927, and in the High Court Fees Rules, 1956.

17.The issue now taken up by Mr.ARL. Sundaresan, learned Senior Counsel, is that Indian Bank is a Nationalized Bank and not a Scheduled Bank. However, this statement may not be correct in its true sense.

18.Section 2(e) of the Reserve Bank of India Act, 1934, is as follows:

> *Section 2 (e) : "scheduled bank" means a bank included in the Second Schedule."*

19.In the Reserve Bank of India Act, 1934 the list of Scheduled Banks have been given in the Second Schedule. The Indian Bank, Madras is found in the Second Schedule as a Scheduled Bank.

20.Therefore, Indian Bank is a Scheduled Bank. Therefore, levy of fees for deposits made in Indian Bank is justified. I would therefore, maintain the order dated 23.03.2021 and answer the issue which has been held over against the applicant. The applicant is entitled only for refund of the principal amount deposited, namely Rs.8,75,31,000/-

together with accrued interest, subject to the provisions of Rules 37, 38 and 39 of Appendix – II of the High Court Fees Rules, 1956. The Registry is perfectly justified in making the deductions as stipulated under the said Rules.

21.In view of the above, the Application is partly allowed permitting refund of the principal amount deposited with accrued interest again subjected to deductions under Rule 37 and dismissed with respect to the claim for refund of the entire amount deposited together with accrued interest. No order as to costs.

01.04.2021

smv
Index : Yes / No
Internet : Yes / No
Speaking order : Yes / No

C.V.KARTHIKEYAN.J.,

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