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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.20491 OF 2019

M/s.Bannari Amman Sugars Limited,
represented by its Company Secretary,
C.Palaniswamy
Regd. Office : 1212, Trichy Road,
Coimbatore - 641 018.

...Petitioner

vs.

1.The District Collector,
Dharmapuri District.

2.The Secretary to Government,
Industries Department,
Government of Tamil Nadu,
Secretariat,
Chennai 600 009.

3.The Director of Geology and Mining,
Government of Tamil Nadu,
Guindy, Chennai 600 032.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st Respondent raising demand vide letter dated 19.06.2019 Na.Ka.No.350/2017 (Minerals) and consequently issue a Mandamus directing the Respondents to demand for contribution towards DMF only with effect from 19.05.2017 vide G.O.Ms.No.57 Industries (MMD-1).

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.B.Vijay,
Addl. Government Pleader

O R D E R

Petitioner has come up with this Writ Petition challenging the demand raised by the 1st Respondent vide letter in Na.Ka.No.350/2017 (Minerals), dated 19.06.2019 and for a consequential direction to the Respondents to demand for



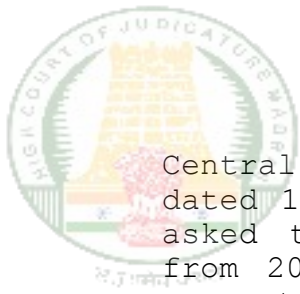
contribution towards DMF only with effect from 19.05.2017 vide G.O.Ms.No.57 Industries (MMD-1).

2. It is stated by the Petitioner that, their Company was granted quarrying lease under the then Rule 8A of the Tamil Nadu Minor Mineral Concession Rules, 1959 for quarrying black Granite over an extent of 6.00.00 hectares of land in Survey No.260/ (part-2) in Panchapalli Village, Palacode Taluk, Dharmapuri District, for mining black Granites, originally for a period of ten years from 28.03.1991 to 27.03.2001 vide G.O.(2D) No.70, Industries Department, dated 08.03.1991. Thereafter, the said quarrying lease was renewed for the period from 28.03.2001 to 27.03.2021 vide G.O.(2D) No.39, Industries (MME.2) Department, dated 21.11.2017.

3. The Central Government, vide Mines and Minerals (Development and Regulation) Amendment Act, 2015, inserted Section 9B in the Mines and Minerals (Development and Regulation) Act, 1957 with effect from 12.01.2015, which empowers the State Government by a Notification, to establish a Trust as a non-profit body, to be called the 'District Mineral Foundation'. Thereafter, on 17.09.2015, the Ministry of Mines issued a Notification vide G.S.R.715(E) inter alia, prescribing the amount of contribution to be made to District Mineral Foundation with reference to royalty paid in terms of the second Schedule to the Mines and Minerals (Development and Regulation) Act, 1957.

4. The Government of Tamil Nadu vide G.O.Ms.No.57, Industries (MMD-1), dated 19.05.2017, framed Rules viz. Tamil Nadu District Mineral Foundation Rules, 2017, inter alia for establishment of District Mineral Foundation, for prescribing the rates in respect of minor minerals.

5. The case of the Petitioner is that, they had been granted quarrying lease for black Granite, which is a minor mineral and in case of lease relating to minor minerals, the State Government has to prescribe the amount payable to the District Mineral Foundation (DMF) under sub-Section (4) of Section 15 read with Section 15A of the Mines and Minerals (Development and Regulation) Act, 1957. It is stated by the Petitioner that, for the State of Tamil Nadu, District Mineral Foundation was notified and established only on 19.05.2017 under G.O.Ms.No.57 and prior to the said Notification, no rates were prescribed under any law. Hence, according to the Petitioner, the contribution to District Mineral Fund cannot be demanded with effect from 17.09.2015 and it can only be demanded from the date, the State Government prescribed the rates under the Tamil Nadu District Mineral Foundation Rules, 2017, i.e. with effect from 19.05.2017 and not from 17.09.2015, as notified by the



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Central Government. Aggrieved by the impugned demand notice dated 19.06.2019 passed by the 1st Respondent, whereby, they are asked to pay the contribution to District Mineral Foundation from 2015, the Petitioner is before this Court by way of the present Writ Petition.

6. Learned counsel for the Petitioner submitted that, the issue raised in the present Writ Petition is no longer res integra, as the issue had already been decided by a Division Bench of this Court in W.P.No.1256 of 2018 batch of cases, vide order dated 16.09.2019. Relevant portion of the said decision is extracted hereunder:

"50. The learned Advocate General appearing for the State of Tamil Nadu has fairly accepted that, in view of the proposition in law laid down by the Hon'ble Supreme Court in Federation of Indian Mineral Industries and others vs. Union of India and another reported in (2017) 16 SCC 186, the State Government does not have the power to collect contribution to District Mineral Foundation, from an anterior date to the establishment of fund, by the rules framed on 19.05.2017.

51. In view of the above, all the Writ Petitions are disposed of in the light of the judgment of the Hon'ble Supreme Court in Federation of Indian Mineral Industries and others vs. Union of India and another reported in (2017) 16 SCC 186. It goes without saying that the above judgment of the Hon'ble Supreme Court has the effect of striking down Rules 8 to 11 of the Tamil Nadu District Mineral Foundation Rules, 2017. In all the cases, amount demanded has been paid. The Petitioners are entitled to refund of the excess amount paid. Hence, the Respondents are directed to refund the excess amount to the Petitioners, within a period of two months, from the date of receipt of a copy of this order. ... "

7. Learned Additional Government Pleader appearing for the Respondents conceded to the submissions of the learned counsel for the Petitioner.

8. Heard the learned counsel on either side and perused the material documents available on record.

9. It is seen that, the issue raised in the present Writ Petition has already been decided by a Division Bench of this



Court in W.P.No.1256 of 2018 batch of cases, vide order dated 16.09.2019. The Hon'ble Supreme Court in the case of Federation of Indian Mineral Industries (supra) has clearly held that, the State Government does not have the power to collect contribution to District Mineral Foundation, from an anterior date to the establishment of fund, by the Rules framed on 19.05.2017. Following the ratio laid down in the said decision, this Court quashes the impugned demand notice dated 19.06.2019 passed by the 1st Respondent herein. The 1st Respondent is directed to refund the excess amount, if collected prior to 19.05.2017, to the Petitioner, within a period of two months from the date of receipt of a copy of this order. However, the Respondents are entitled to collect the contribution towards District Mineral Foundation from the Petitioner, after 19.05.2017.

The Writ Petition is allowed on the above terms. No costs. Consequently, connected W.M.P.Nos.19774 & 19775 of 2019 are closed.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

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To:

- 1.The District Collector,
Dharmapuri District.
- 2.The Secretary to Government,
Industries Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.
- 3.The Director of Geology and Mining,
Government of Tamil Nadu,
Guindy, Chennai 600 032.

+1cc to M/S.R.Parthasarathy, Advocate Sr.No.63694

+1cc to the Government Pleader Sr.No.63521

W.P.No.20491 of 2019

NRL(CO)
RVM(24/02/2022)