

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 1049 of 2015

M/s. I.V.T.V.L.T. (J.V)

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Petitioner

Mr. L.N. Patel, Advocate

Vs.

***General Manager, MCL and
others***

.....

Opposite Parties

Mr. R. Sharma, Advocate

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

11.05.2022

Order No.

04.

This matter is taken up through hybrid mode.

2. Heard Mr. L.N. Patel, learned counsel appearing for the petitioner and Mr. R. Sharma, learned counsel appearing for the opposite parties.

3. The petitioner has filed this writ petition seeking to quash the letter dated 12.01.2015 under Annexure-6, by which, the opposite parties, on the basis of the C&AG Audit report, have contemplated for withholding of an amount of Rs.38,21,842.90 towards under-loading charges for the month of December 2014.

4. Mr. L.N. Patel, learned counsel for the petitioner contended that though notice was issued on 12.01.2015 contemplating withholding of an amount of Rs.38,21,842.90 towards under-loading charges for the month of December 2014, but the petitioner is not liable to deposit such amount. More so, such amount has not yet been withheld because of the interim order passed by this Court on 20.01.2015. In view of such, the order impugned under Annexure-6 is liable to be quashed.

5. Mr. R. Sharma, learned counsel for the opposite parties contended that the amount in question was directed to be withheld towards under-loading charges for the month of December 2014, but

the same has not yet been given effect to in view of the interim order passed by this Court. In any case, the dispute can be resolved by the appropriate authority in accordance with law.

6. Having heard learned counsel for the parties and after going through the record, it appears that the impugned order reveals that as per C&AG Audit report, an amount of Rs.38,21,842.90 was contemplated to be withheld towards under-loading charges for the month of December 2014. But till date, such amount has not yet been withheld. A counter affidavit has been filed by the opposite parties, wherein it has been indicated that though demand has been raised, but the amount has not been withheld because of the interim order passed by this Court on 20.01.2015.

7. As it appears, the dispute could not be resolved through there is a provision under Clause 12 of the agreement with regard to settlement of dispute. On perusal of the interim order, it reveals that, this court had directed that withholding of the amount mentioned in Annexure-6 shall remain, subject to result of the writ petition. Thereby since the amount has not yet been recovered/withheld from the petitioner, it is open to the parties to approach the appropriate forum for redressal of the dispute in terms of the agreement/DTCN, which is applicable to the petitioner. Till disposal of the dispute, the order dated 12.01.2015 with regard to withholding of the amount, shall not be implemented.

8. With the above observation/direction, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun/Bichi

(SAVITRI RATHO)
JUDGE