

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 11457 of 2022

BKD Infrastructure Pvt. Ltd.

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Petitioner

Ms. K.R. Choudhury, Advocate

Vs.

***Tahasildar Maneswar, Sambalpur
and others***

.....

Opposite Parties

Mr. P.P. Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE SANJAY KUMAR MISHRA

ORDER

21.06.2022

Order No.

03.

This matter is taken up through hybrid mode.

2. Heard Ms. K.R. Choudhury, learned counsel for the petitioner and Mr. P.P. Mohanty, learned Additional Government Advocate for the State.

3. The petitioner has filed this writ petition assailing the order dated 31.03.2022 under Annexure-5, by which interest for delayed payment of royalty and other dues amounting to Rs.96,00,089/- has been charged by the AG audit for recovery, as per the audit observation dated 31.03.2021, by 22.04.2022.

4 Ms. K.R. Choudhury, learned counsel for the petitioner contended that pursuant to the agreement executed between the parties on 31.12.2015, assessment has been made for Rs.91.64.803/- vide Annexure-2 series and, as such, the same was deposited well within the time specified, as a consequence thereof, the petitioner is not liable to pay any interest thereon. It is further contended that while making the demand on 31.03.2022, no opportunity was given to the petitioner and the amount has been determined behind the back of the petitioner towards interest for delayed payment of royalty and other dues on the basis of the audit observation dated 31.03.2021.

5. While entertaining the writ petition on 10.05.2022, this Court called

upon the State Counsel to obtain instruction and file counter affidavit and this Court passed the interim order to the effect that there shall be stay operation of the order dated 31.03.2022 under Annexure-5 till 19.05.2022.

6. Mr. P.P. Mohanty, learned Additional Government Advocate received the instruction from the Tahasildar, Maneswar vide his communication dated 20.06.2022 to the following effect:-

“With reference to the above cited subject, this is to inform you that, in pursuant to your letter cited under reference wherein, as per direction of this Hon’ble court, it is to intimate you that the demand notice has been issued on dt. 31.03.2022 basing on audit observation reference no. #7 (OBC-246021) dt. 31.03.2022 of Accountant General Audit – I as per Rule 32 of OMMC Rules 2016 read along with Rule 47 of OMCC Rules 2016. Hence no show cause notice was issued to the petitioner as the outstanding demand has been raised basing on AG Audit report submitted to this office.”

7. In view of the admission made by the opposite parties that no opportunity of hearing was given while making the demand of interest on the royalty amount, the order so passed vide Annexure-5 dated 31.03.2022 is hereby quashed and the matter is remitted back to the Tahasildar, Maneswar to reconsider the same by following due procedure and by giving opportunity of hearing to the petitioner, in compliance of the principle of natural justice.

8. The writ petition is accordingly disposed of.

(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE