



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2022

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. No.16154 of 2017

and

W.M.P.No. 17456 of 2017

Tannex Apparels Limited,
rep. by its Authorised Signatory,
Vishwanathan S.

...Petitioner

Versus

The Member Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Salai,
Guindy, Chennai-32.

...Respondent

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records that are pending on the file of the respondent in Lr.No.T11/TNPCB/F.22238/CUD/2017 dated 11.04.2017 and quash the same so far as it relates to submission of undertaking by the petitioner company that it will not claim interest on deposit amount and consequently direct the respondent to pay interest at the agreed rate of 10.5% p.a. on the deposit of Rs.15 lakhs bearing Receipt No.320 dated 17.02.1993 from the date of receipt till the date of return of the deposit.

For Petitioner : Mr.C.V.Shailandhran

For Respondent : Mrs.Shanmugavalli Sekar
Standing Counsel

O R D E R

This Writ Petition has been filed challenging the order passed by the respondent dated 11.04.2017, directing the petitioner to forego the interest payable on the performance guarantee deposit made by the petitioner.

2. The grievance of the petitioner is that, the petitioner was engaged to set up a tannery plant at Marungur Village, Panruti Taluk, Cuddalore District. At the time of seeking environmental clearance, the respondent Pollution Control Board



(hereinafter called as 'Board'), has collected a sum of Rs.15,00,000/- on 17.02.1993, towards refundable performance security deposit for the installation of Effluent Treatment Plant, which is repayable in 24 months, after that date, with interest at the rate of 10.5% per annum. Thereafter, the petitioner commenced the unit and also constructed the Effluent Treatment Plant. After completion of the plant, the petitioner had approached the respondent seeking for refund of security deposit. However, the respondent Board directed the petitioner to give an undertaking that the petitioner will not make any claim towards interest, and insisted the petitioner to forego the interest payable to them. Now, challenging the order, the present Writ Petition has been filed.

3. The respondent filed a counter affidavit stating that, performance guarantee deposit has been collected for due compliance of construction of Effluent Treatment Plant. For that purpose, they have collected a sum of Rs.15 lakhs on 17.02.1993. However, the unit did not claim refund of amount after expiry of two years from the date of deposit, hence, it is deemed that, the industry has not fulfilled the object of installing Effluent Treatment Plant properly. Subsequently, in a board meeting held on 23.03.2017, the respondent Board has approved the refundable performance guarantee without interest subject to the condition that the unit shall not make any further claim or interest for the deposit amount. Thereafter, a notice has been issued to the petitioner seeking undertaking that, he will not claim interest for the deposit of amount, however, no reply has been received. Now, the amount has been utilised to construct environmental pavillion in Kotturpuram. Therefore, the Board has resolved to release the amount of Rs.15,00,000/- without interest.

4.Mr.C.V.Shailandhran, learned counsel appearing for petitioner would submit that, after filing the Writ Petition, the petitioner company itself has approached the respondent Board for refund, it is only the respondent Board failed to return the amount, there is no reason for waiving the interest. However, the petitioner has agreed to receive reduced interest rate from 10.5% to 8.5% per annum, that request has been considered by the Board in a meeting held on 05.02.2017, but decided to pay interest at the rate of 10.5% for the first two years only. The learned counsel has also produced the copy of the order passed by the respondent.

5.Mrs.Shanmugavalli Sekar, learned standing counsel appearing for respondent would submit that, the security deposit has been collected for the purpose of construction of Effluent Treatment Plant within a time frame. That apart, the amount has been deposited only for the period of two years, but the petitioner did not claim for refund of any amount. Hence, it is

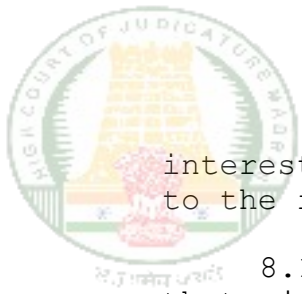


considered that the petitioner has not complied with the conditions and construct the Effluent Treatment Plant within a time frame. In the said circumstances, the petitioner has to necessarily forfeit the interest, considering the request made by the petitioner, the respondent Board has decided to pay the interest for the first two years and for the remaining period, the petitioner is not entitled for any interest. The learned counsel would further submit that, now the initial deposit of Rs.15 lakhs along with interest for the period of two years has been paid by the respondent Board as early as on 27.12.2018 and the petitioner has also received the same. Hence, he is not entitled for any further interest.

5. Heard and considered rival submissions made by learned counsel appearing for both sides and perused the records.

6. It is an admitted fact that, the respondent Board has received a sum of Rs.15 lakhs towards performance guarantee for the construction of Effluent Treatment Plant and from the receipt issued by the respondent Board, it could be seen that, it carries interest of 10.5% per annum, which is repayable after 24 months of the deposit. It is not the case of the respondent Board that the petitioner has violated any condition and not completed the construction of Effluent Treatment Plant. That apart, it could be seen that the petitioner has made request as early as on 26.04.2000 to the respondent Board to refund the deposit amount or transfer the deposit in favour of Tannex Apparels Ltd., which is reflected in the order passed by the respondent dated 22.06.2000, however, the petitioner's request was not considered and acted upon. Despite several reminders sent by the petitioner, the amount has not been refunded and finally, only on 11.04.2017, the respondent Board has sent the impugned letter asking the petitioner to give an undertaking that he will not claim any interest. Not agreeing for the above condition, the petitioner has filed the above Writ Petition challenging the said notice.

7. It is brought to the notice of this Court, pending Writ Petition, the respondent Board has issued another order dated 05.12.2017, wherein they have agreed to pay interest at the rate of 10.5% per annum for the period of first two years from the date of initial deposit, and the deposit along with interest for the period of first two years was also paid to the petitioner. Now, the question is whether the petitioner is entitled for any further interest. It is not in dispute that the respondent Board has received the amount with the promise to refund the amount with interest at the rate of 10.5% per annum, and it is not the case of the Board that the petitioner has violated any of the conditions and he is not entitled for interest, and the Board has also agreed to pay interest for two years. Keeping the



interest for a long time, without any reason, now it is not open to the respondent to deny interest.

8. In the said circumstances, this Court is of the view that, it is a promise made by the respondent Board to refund the amount with interest, now the respondent Board cannot go back on it without any valid reason whatsoever. Hence, the petitioner is entitled to get interest from the date of deposit till the amount deposited returned to the petitioner. However, the learned counsel appearing for the petitioner would fairly submitted that, already the petitioner approached the respondent Board for reducing interest from 10.5% to 8.5% per annum and the petitioner will be satisfied, if the Board pay the interest at the rate of 8.5%. Considering his request, the respondent Board is directed to pay interest at the rate of 8.5% from the date of deposit till the date of amount returned to the petitioner, and the amount should be paid within a period of six weeks from the date of receipt of copy of this order.

9. Accordingly, the impugned order passed by the respondent is set aside and this Writ Petition is partly allowed as indicated above. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rpp

To

The Member Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy, Chennai-32.

+1cc to Mr. Shanmugavalli Sekar, (TNPCB) S.R.No.15387

W.P.No.16154 of 2017

SPD(CO)
RGA(07/04/2022) (13/04/2022)