



WP.No.2905 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.2905 of 2017

M/s.Dalmia Cement [Bharat] Ltd.,
Dalmiapuram, Lalgudi Taluk,
Tiruchirapalli District
Rep. by its Senior GM Legal T.A.Srinivasen ... Petitioner

Vs

1. State of Tamilnadu
Rep. by the Secretary to Government,
Industries Department,
Secretariat, Chennai – 600 009.
2. The Director of Geology & Mining,
Guindy, Chennai – 600 032. ... Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the first respondent to forthwith refund the undisputed liability of Rs.1.5 crores, which was deposited with the second respondent pursuant to the terms of the directions as set out in the minutes of the meeting with the first respondent dated



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17.01.1997, which have become due and refundable consequent upon the judgment of the Hon'ble Supreme Court in favour of the petitioner dated 27.08.2001 in Civil Appeal Nos.5765 and 5766 of 2001 together with interest at the rate of 18% per annum from the date of deposit till the date of refund.

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.S.Balamurugan
Government Advocate

ORDER

This Writ Petition has been filed to direct the first respondent to forthwith refund the undisputed liability of Rs.1.5 crores, which was deposited with the second respondent pursuant to the terms of the directions as set out in the minutes of the meeting with the first respondent dated 17.01.1997, which have become due and refundable consequent upon the judgment of the Hon'ble Supreme Court in favour of the petitioner dated 27.08.2001 in Civil Appeal Nos.5765 and 5766 of 2001 together with interest at the rate of 18% per annum from the date of deposit till the date of refund.



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2. The petitioner had several mining licenses in the district of Tiruchirapalli and Perambalur, which it was exploiting under valid mining licenses. While so, a demand was raised for a sum of Rs.21.47 crores vide letter dated 09.04.1997 by the District Collector Tiruchirapalli towards claim of Local Cess and Local Cess Surcharge with interest. Similarly the District Collector of Perambalur had demanded a sum of Rs.25.49 crores vide letters dated 09.04.97, 30.04.97 and 12.05.97 towards Local Cess and Local Cess Surcharge with interest. The above levy of Local Cess and Local Cess Surcharge has been challenged in W.P.Nos.8329 and 8330 of 1997. Thereafter, the Larger Bench of the Honourable Supreme Court in **District Mining Officer Vs. TISCO reported in 2001 [7] SCC 358** has held that the Local Cess and Local Surcharge could not be collected after 04.04.91. It is the case of the petitioner that the deposit of a sum of Rs.1,50,00,000/- made in civil deposit as decided by the Government. It is also agreed by the Government that the said deposit will be either adjusted or refunded as per the Orders of the Honourable Supreme Court. Now, as the Honourable Supreme Court has held that the amount levied towards Local Cess and Local Surcharge could not be collected, the petitioner is entitled to refund of the deposit made in a civil deposit.



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3. Counter has not been filed all these years. Even the minutes dated 17.01.1997 regarding claim of arrears of local chess and local surcharge, it has been clearly recorded to the effect that the civil deposit either be adjusted or refunded on the basis of the decision of the Honourable Supreme Court. Therefore, once the respondents have agreed to refund the deposit, they are bound to refund the amount. Despite several reminders from the year 2011, the Government has not refunded the amount.

4. I have perused the entire records. The Apex Court in Civil Appeal Nos.5755 and 5756 of 2001 has allowed the writ appeal filed by the writ petitioner following the judgment of the Larger Bench of Supreme Court in **District Mining Officer Vs. TISCO reported in 2001 [4] Scale 680**. Therefore, it is very clear that the Local Cess and Local Surcharge cannot be collected by the respondents. As the respondents have received deposit to the tune of Rs.1,50,00,000/- as Civil Deposit and in the minutes dated 17.01.1997 itself they have agreed to either adjust or refund the deposit, the respondents are directed to refund the Civil Deposit to the petitioner with nominal interest as per the banking regulations within a period of three months from the date of receipt of a copy of this Order.



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5. With the above direction, this Writ Petition is allowed. No costs.

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To,

1. The he Secretary to Government,
Industries Department,
Secretariat, Chennai – 600 009.
2. The Director of Geology & Mining,
Guindy, Chennai – 600 032.



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