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W.P.No.6065 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2023

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.6065 of 2017 and

W.M.P.No.6487 of 2017

Krishna Industrial Corporation Limited
Represented by its Managing Director
Dr.S.R.K.Prasad
Ramakrishna Building
239, Annasalai
Chennai.

.. Petitioner

vs

1. Union of India
Represented by its Secretary
Ministry of Commerce & Industry
Department of Fertilizers
Shastri Bhawan
New Delhi.

2. The Director
Department of Fertilizers
Room No.173, Udyog Bhavan
New Delhi 110 017.

3. Andhra Bank
SARM Branch
No.168, Lingi Chetty Street
Chennai 600 001.



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4. Andhra Pradesh State Financial Corporation
27-3-24/1, Opp.S.P's Office
Narasimharaopet, W.G.District
Eluru 534002.A.P.

5. Maximus ARC Limited
59-A-181-5A
SRI Plaza, Teachers Colony, Patamata
Vijayawada 520008, Andhra Pradesh
Represented by its Managing Director.

[R5 impleaded vide order dated 09.03.2023 in
WMP.No.30170 of 2017 in
WP.No.6065 of 2017]

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus, directing the respondents 1 to 2 herein to release the subsidiary amount of Rs.3,83,70,725/- (Rs. Three Crore Eighty Three Lakh Seventy Thousand Seven Hundred and Twenty Five Only) due to the petitioner immediately.

For the Petitioner	: Mr.G.Gautham Ram Vittal
For the Respondents	: Mr.N.Siva Bharathi Central Govt. Standing Counsel for respondents 1 & 2 Mr.P.Veera Raghavan for respondent 3



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Mr.Chandru
for M/s.King and Partridge
for respondent 4

Mr.S.Sathiya Narayanan
for respondent 5

ORDER

The writ petition is filed to direct the respondents 1 and 2 to release the subsidiary amount of Rs.3,83,70,725/- (Rs. Three Crore Eighty Three Lakh Seventy Thousand Seven Hundred and Twenty Five Only), due to the petitioner, immediately. The petitioner is in the business of manufacturing and selling of fertilizers, mostly for agricultural purposes.

2. The petitioner Company is in the process of liquidation through order dated 27.07.2020 in MA/376/2020 in CP/1053/IB/2018 passed by the National Company Law Tribunal, Chennai. The liquidation was ordered under Section 7 of the Insolvency and Bankruptcy Code, 2016 by the fifth respondent. Thereafter, a liquidator was appointed and the writ petitioner is now represented by the liquidator.



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3. The learned counsel appearing on behalf of the petitioner mainly contended that the Company is eligible to avail the benefit of subsidiary as per the Government of India scheme and therefore, the relief, as such, has to be granted.

4. The learned counsel appearing on behalf of the respondents 1 and 2 filed the current status of the Company, which is extracted hereunder:

“(i) On account / balance claim – March 2010, July 2015 to March 2016 minimum bench mark production criteria was no fulfilled by the company hence, no eligible for payment

(ii) Balance claim January 2010 to March 2010 claims along with quantity and quality certificate (B-1/B2) not received.

(iii) Balance claim 0 June 2014 to March 2015 claims for sale in Telengana along with quantity and quality certificate (B-1 / B-2) not received.

(iv) Balance claim – April 2015 to June 2015 claims along with quantity and quality certificate (B-1/B-2) not received

(v) Balance claim – June 2016 – December claims



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along with quantity and quality certificate (B-1/B-2) not received

This is filed by the counsel on record as he received the above information through email (copy of the same is also included)”

5. The learned counsel for the petitioner raised an objection by stating that the application submitted by the petitioner Company is pending before the competent authority and the said subsidiary amount is also yet to be released by the respondents, already from June, 2016 to December 2016.

6. This Court is of the considered opinion that the petitioner Company is under liquidation and consequently, a liquidator was appointed. Thus, the liquidator has to pursue the application with the competent authority for the purpose of releasing of the subsidiary, by following the procedures as contemplated under the scheme of the Rules, as the case may be.



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7. In respect of certain applications, the respondents 1 and 2 had raised certain objections as the minimum benchmark production criteria has not been complied with by the Company, therefore, they are not eligible for subsidiary. Eligibility or ineligibility are considered with reference to the minimum benchmark production and other criteria prescribed under the scheme for grant of subsidiary. The liquidator appointed shall pursue the application and produce all the necessary documents before the authorities for appropriate decision.

8. With these liberty, the writ petition stands disposed of. There will be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

Index : Yes/No
Neutral Order: Yes/No
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09.03.2023
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To:

1. Union of India
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Ministry of Commerce & Industry
Department of Fertilizers
Shastri Bhawan
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2. The Director
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W.P.No.6065 of 2017

S.M.SUBRAMANIAM,J.

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