



WP(MD)No.18655 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30.06.2023

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CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.18655 of 2017

M/s.Madhucon Granites Limited,
Represented by its
Assistant General Manager,
S.Mallikarjuna Rao,
having its Registered office at
Madhu Complex,
Jublipura Khammam,
Telengana
Branch Office at:
Plot No.239 Roja Nagar,
Collectorate Post,
Karur Town
and District

... Petitioner

Vs

The District Collector,
Pudukottai District.
Pudukottai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus by calling the entire case records in connection with the Mining Dues Clearance Certificate in ROC.No.1266/2015/Mines dated 13.06.2017 issued by the respondent and quash the same insofar as the attachment statement annexed to it and consequently direct the respondent to issue a fresh Mining Dues Clearance



WP(MD)No.18655 of 2017

Certificate mentioning the dues of the petitioners company alone within a period specified by this Court.

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For Petitioner : Mr.S.Saranavanakumar
For Respondent : Mr.M.Sarangan,
Additional Government Pleader

ORDER

The mining dues clearance certificate issued by the respondent District Collector, Pudukkottai is under challenge in this writ petition.

2.The District Collector, Pudukkottai has issued the said certificate as contemplated under Rules 8, 8C, 19, 19A of the Tamil Nadu Minor Mineral Concession Rules, 1959 ("TNMMC Rules"). The petitioner is a company incorporated under the Companies Act has applied for grant of lease to quarry multicoloured granite in Pichampatti Village, Karur District under rule 19A of the "TNMMC Rules". The petitioner company is also conducting quarry operations in Pudukkottai District at Vilathupatti village. The petitioner was directed to obtain their mining dues clearance certificate from the respondent authorities in which the petitioner has applied for quarry lease.



WP(MD)No.18655 of 2017

Accordingly, this mining dues clearance certificate was issued by the respondent District Collector as contemplated under the rules.

3.The respondent by the order impugned in this writ petition has issued the certificate with an attachment that M/s. Madhucon Projects had suffered a penalty of Rs.8,63,85,681/- on its quarry operation conducted at Rakathanpatti Village, Kulathur Taluk, Pudukottai District. This attachment was made due to the fact that the chairman of said Madhucon Projects Ltd., one Nama Nageshwara Rao was also the director of the petitioner Madhucon Granites Ltd. and both the companies belong to the Madhucon Group of Companies.

4.The learned counsel for the petitioner submits that M/s. Madhucon Projects is a public limited company whereas the petitioner Madhucon Granites Ltd. is a private limited company. Hence both the companies are different entities. It is also submitted that the said Nama Nageshwara Rao has also resigned from the directorship of the petitioner company in the year 2009 itself and therefore this



WP(MD)No.18655 of 2017

reference made by the respondent on the dues of the Madhucon projects is without any application of mind and against the law.

5.The learned Government Advocate appearing for respondents, relying on the counter filed by the respondents submits that one Nama Nageshwara Rao is the Chairman of Madhucon Projects Ltd. and he is also one of the Directors of Madhucon Granites Ltd. Moreover, the petitioner Madhucon Granites Ltd and Madhucon Projects Ltd belong to the same Madhucon Group of Companies. As per clause (d) of sub rule 3 of Rule 8 in TNMMC Rules, Mining Dues Clearance Certificate is a requirement for grant of mining lease. Since the petitioner company is having quarry operations in various districts, the petitioner was directed to obtain No Dues Clearance Certificate as contemplated under Rules 8, 8C, 19, 19A of TNMMC Rules. The impugned order has been passed in accordance with the Statuttes and there is no illegality in the certificate warranting interference form this court.



WP(MD)No.18655 of 2017

6.This court considers the rival submissions made and perused the materials placed on record.

7.The petitioner is a quarry operator having quarry operation in various districts. The petitioner company is executing a granite quarry in Pudhukottai District and applied for leasing of lands for quarrying in Karur District. In order to obtain the lease, application is made under Rule 19A of TNMMC Rules. As per clause (d) of sub rule 3 of Rule 8 in TNMMC Rules, this application has to be accompanied by a valid mining dues clearance certificate, as prescribed in Form VIII. Rule 8(3)(d) of TNMMC Rules is extracted hereunder for ready reference,

"(3) Every tender application made for grant of a quarrying lease shall be accompanied by -

(d)a valid mining dues clearance certificate obtained from the Collector of the District where the quarrying or mining lease area is situated, in the Form prescribed in appendix VIII to these rules for having paid mining dues such as royalty, seigniorage fee, lease amount, dead rent, surface rent, area assessment, Local cess and local cess surcharge and the penalty amount payable



WEB COPY



WP(MD)No.18655 of 2017

under the Act or these rules or under the lease deed or agreement already executed or entered into by the applicant."

8.The respondent District Collector here made an attachment to the Mining Dues Clearance Certificate dated 13.06.2017 by referring to the penalty imposed on Madhucon Projects Ltd. This penalty was imposed on Madhucon Projects Ltd for indulging in illegal mining of rough stone quarry at Rakkathampatti village, Kulathur Taluk, Pudukottai District. For this a penalty of Rs.8,63,85,681/- was imposed under Rule 36A of TNMMC Rules. This imposition of penalty was challenged by the company in WP(MD)No.1500 of 2016, which was allowed as the penalty was levied directly by the District Collector and the matter was remitted to the Revenue Divisional Officer. The Revenue Divisional Officer vide proceeding RC.A1/1028/2017 dated 13.07.2017 has again levied the same penalty of Rs.8,63,85,681/- on Madhucon Projects Ltd. which is under challenge before this court in WP(MD) No.14343 of 2017.

9.The District Collector has made this attachment on the Mining Dues Clearance Certificate stating that the



WP(MD)No.18655 of 2017

Chairman of the said Madhucon Projects Ltd is also the Director of the Maducon Granites Ltd, the petitioner herein. The case of the petitioner is that one Nama Nageshwara Rao was the Director of this company who already resigned as the director from the petitioner company in the year 2009 itself. It was also contended that Madhucon Projects Ltd is a public limited company and not a private limited company and they are separate legal entities.

10.The respondents have imposed the liability of Madhucon Projects Ltd on the petitioner company by invoking the doctrine of the lifting of corporate veil. The lifting of corporate veil was examined by a Constitution Bench of the Hon'ble Supreme Court in **Tata Engineering and Locomotive Co. Ltd. v. State of Bihar, [AIR 1965 SC 40]** which held as follows,

"25.The doctrine of lifting of the veil postulates the existence of dualism between the corporation or company on the one hand and its members or shareholders on the other. So, it is no good emphasising that technical aspect of the matter in dealing with the



WP(MD)No.18655 of 2017

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question as to whether the veil should be lifted or not. In support of his plea, he has invited our attention to the decision of the Privy Council in *English and Scottish Joint Cooperative Wholesale Society Ltd. v. Commissioner of Agricultural Income Tax, Assam* [1948 ITR 270] as well as the decision of the House of Lords in *Daimler Company Ltd. v. Continental Tyre and Rubber Company (Great Britain) Ltd.* [1916 AC 307]

26. It is unnecessary to refer to the facts in these two cases and the principles enunciated by them, because it is not disputed by the respondents that some exceptions have been recognised to the rule that a corporation of a company has a juristic or legal separate entity. The doctrine of the lifting of the veil has been applied in the words of Palmer in five categories of cases : where companies are in the relationship of holding and subsidiary (or sub-subsidiary) companies; where a shareholder has lost the privilege of limited liability and has become directly liable to certain creditors of the company on the ground that, with his knowledge, the company continued to carry on business six month after the number of its members was reduced below the legal minimum; in certain matters pertaining to the law of taxes, death duties and stamps, particularly where the question of the "controlling interest" is in issue; in the law relating to exchange control; and in the law relating to trading



WP(MD)No.18655 of 2017

with the enemy where the test of control is adopted [Palmer's Company Law, 20th Edn., p. 136] . In some of these cases, judicial decisions have no doubt lifted the veil and considered the substance of the matter."

11.The concept of corporate entity was evolved to encourage and promote trade and commerce but not to commit illegalities or to evade the law. The Hon'ble Supreme Court in **Life Insurance Corporation of India v. Escorts Limited and Others [(1986) 1 SCC 264]** held that the corporate veil may be lifted where a statute itself contemplates lifting the veil, or fraud or improper conduct is intended to be prevented, or a taxing statute or a beneficent statute is sought to be evaded or where associated companies are inextricably connected as to be, in reality, part of one concern.

12.In view of the same, this court is not inclined to entertain this writ petition and accordingly this petition is dismissed. No costs.

30.06.2023

Internet : Yes / No

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WP (MD) No.18655 of 2017

B. PUGALENDHI, J.

DSK

To

The District Collector,
Pudukottai District.
Pudukottai.

WP (MD) No.18655 of 2017

30.06.2023