IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF DECEMBER, 2024

PRESENT

THE HON'BLE MR. N. V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION No. 34142 OF 2024 (GM-MM_S)

BETWEEN:

1. M/S CTA GRANITES,
REP. BY ITS PROPRIETOR,
SRI. CHANDRAHAS T. AMIN,
S/O THIMMAPPA AMIN,
AGED ABOUT 48 YEARS,
R/AT PITHRU CHAYA,
AMIN COMPOUND,
GANDHINAGAR, KOVOORU,
MANGALURU, DAKSHINA KANNADA-575001.

...PETITIONER

(BY MS. ILASHRI GAUR, ADVOCATE)

AND:

Digitally signed by VALLI MARIMUTHU
Location: High Court of Karnataka

1. THE STATE OF KARNATAKA
REP. BY ITS SECRETARY, DEPARTMENT OF
COMMERCE AND INDUSTRIES, VIKAS SOUDHA,
BENGALURU-560001.

2. THE DIRECTOR,
DEPARTMENT OF MINES AND GEOLOGY,
No.49, RACECOURSE ROAD,
KHANIJA BHAVANA,
BENGALURU-560001.

3. SENIOR GEOLOGIST,
DEPARTMENT OF MINES AND GEOLOGY,
1ST FLOOR, JUGAL TOWERS,

MALLIKATTE, MANGALORE,
DAKSHINA KANNADA-575003.

…RESPONDENTS

(BY SMT. NILOUFER AKBAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE ORDER DATED 30/11/2024 PASSED BY THE 3RD RESPONDENT, MADE IN No.GABHUE/HIBHUVI(MAN)/CRUSHER/NOTICE/2024-25/4195, PRODUCED AT ANNEXURE-A.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE THE CHIEF JUSTICE MR. JUSTICE
N. V. ANJARIA
and
HON'BLE MR JUSTICE K. V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

Heard learned advocate Ms. Ilashri Gaur for the petitioner and learned Additional Government Advocate Smt. Niloufer Akbar for respondents.

2. The captioned writ petition challenging the notice dated 30.11.2024 issued by respondent No.3 at Annexure-A wherein the petitioner is directed to pay royalty with penalty within ten days.

3. The case of the petitioner is that the petitioner is carrying out a crushing activity. It is stated that the Royalty and other charges as

payable under the statue are paid. The notice issued alleging suppression of raw material and dispatch permits is without any basis.

4. Learned advocate Ms. Ilashri Gaur appearing for the petitioner submits that transporting minor minerals for crushing purposes is governed and regulated under Karnataka Regulation of Stone Crushers Act and Rules. Minerals dispatch permits are issued for the transportation of the minerals. It is further submitted that for every transportation of minor minerals and raw materials, minerals dispatch permits are procured through online. The minerals are transported on payment of royalty. It is submitted that in the absence of any material regarding the suppression of raw material used, the demand made on an estimation basis is unjustifiable.

5. It is submitted that estimating the quantum of crushing on the electricity consumed is irrational and not provided in the Act or Rules. Further, it was submitted that the direction to pay royalty and penalty without any assessment or determination of liability is incorrect.

6. Learned Additional Government Advocate Smt. Niloufer Akbar justifying the impugned orders/notice submitted that the notices issued calling upon the petitioner to pay royalty and fee, to which the petitioner can submit reply. On the above aspect, it is submitted that the writ petition is premature.

7. Having considered the submissions of the learned counsel for the parties and perusing the writ petition, it is clear that the respondent-authorities, through the notice dated 30.11.2024, have determined the liability payable and have demanded payment within ten days. However, the notice fails to specify the exact amount payable towards royalty and penalty, though it quantifies the total quantum of minerals concerned. The total quantum determined for the purposes of royalty and penalty is 27,112.6315 MT. Upon examining the impugned notice, it is apparent that no further adjudication or determination is kept open, even if the petitioner were to file a reply. Issuance of a demand notice without prior assessment or adjudication of the liability is in violation of the principles of natural justice and defeats the essential purpose of liability, assessment and determination. The settled position is that

the demand notice should precede assessment/determination of liability needs no reiteration.

8. In view of the totality of the facts, it must be held that the notice of demand issued cannot be sustained. However, any liability, on the petitioner cannot be dismissed on technical grounds alone. The interest of both the parties can be protected by directing re-adjudication.

9. In the light of the above aspects, the following,

O R D E R

(i) Writ petition is allowed-in-part.

(ii) Notice dated 30.11.2024 bearing No.GaBhuE/HiBhuVi(Man)/Crusher/Notice/2024-25/4195 issued by respondent No.3 is hereby quashed only to the limited extent to treat the said notice as show cause notice.

(iii) The petitioner is at liberty to submit reply to the show cause notice.

(iv) The petitioner is at liberty to seek further details, the basis of the notice. While such request is made, respondent-authority shall furnish the same. The entire exercise as directed above shall be completed within six weeks.

Sd/-
(N. V. ANJARIA)
CHIEF JUSTICE

Sd/-
(K. V. ARAVIND)
JUDGE

VBS
List No.: 1 Sl No.: 14