
(2011) 06 MP CK 0030

In the Madhya Pradesh High Court

Case No : Writ Petition No. 4336 of 1997

Hindustan Copper Ltd.

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 23-06-2011

Acts Referred:

Mineral Concession Rules, 1960 — Rule 64A

Mines and Minerals (Development and Regulation) Act, 1957 — Section 25

Citation : AIR 2012 MP 120 : (2011) ILR (MP) 1941 : (2011) 4 MPHT 289 :
(2011) 4 MPLJ 144

Hon'ble Judges : Ravi Shankar Jha, J

Bench : Single Bench

Judgement

R.S. Jha, J.

The Petitioner has filed this petition being aggrieved by the notices issued to the Petitioner, Annexures P-6, P-7 and P-9, dated 20-1-1997, 14-3-1997 and 14-10-1997 respectively seeking to recover simple interest at the rate of 24 percent from the Petitioner on the arrears of difference of royalty outstanding against them.

It is submitted by the learned Counsel for the Petitioner that the Petitioner has obtained a mining leases in Malajkhand, District Balaghat for extracting copper ore which is a major mineral under the provisions of the Mines & Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the "MMDR Act"). As the rate of royalty was enhanced by the Respondent/authorities, the Petitioner challenged the same before this Court and an interim order dated 3-8-1993 was passed staying recovery of enhanced amount of royalty from the Petitioner, however, the petition filed by the Petitioner i.e W.P. No. 3042/1993 ultimately stood dismissed by this Court by order dated 23-3-1995. Pursuant to the dismissal of the petition the Respondents issued notice to the Petitioner on 24-3-1995 seeking to recover the difference of royalty which was duly deposited by the Petitioner. However, it is stated that by the impugned notices Respondents

now seek to recover simple interest on the delayed payment of the enhanced amount of royalty at the rate of 24% simple interest from the Petitioner.

The learned Counsel for the Petitioner submits that the Respondent/authorities have no right to recover the said interest as there was an interim order passed by this Court on 3-8-1993 and it was on that count the enhanced amount of royalty was not deposited. It is submitted that in such circumstances the impugned notices deserve to be quashed. It is also submitted that there is no provision in the Mines & Minerals (Development and Regulation) Act, 1957 empowering power to recover interest and therefore the notices are without jurisdiction.

The Respondents have filed a return and submitted that as the royalty was not deposited in time and as the petition filed by the Petitioner subsequently suffered dismissal, the Respondent/authorities have rightly issued the impugned notices seeking to recover simple interest at the rate of 24% in accordance with the provisions of the Rule 64A of the Mineral Concession Rules 1960. It is also pointed out that part VI(3) of the statutory lease also makes the Petitioner liable to pay interest at the rate prescribed on outstanding amount of royalty and in such circumstances, the contention of the Petitioner deserves to be rejected.

The Respondents have also filed a copy of the order passed by this Court in similar cases assailing recovery of simple interest on dismissal of the petition wherein this Court has dismissed the similar petitions i.e. W.P. Nos. 4410/1994, 3608/1996 and 3894/1996 relying on the decision of the Supreme Court rendered in the case of Haji Lal Mohd. Biri Works, Allahabad through Abdul Hamid Vs. The state of U.P. and Others, It is submitted that the issue involved in the present petition is identical and, therefore, the present petition also deserves to be dismissed.

Learned Counsel for the Petitioner, in spite of strenuous efforts, could not distinguish the case of the Petitioner from the aforesaid writ petitions wherein similar issue was raised by the Petitioners therein which was rejected by this Court.

From a perusal of the order passed by this Court in W.P. No. 4410/1996, it is clear that this Court relying on the provisions of Section 25 of Mines & Minerals (Regularation & Development) Act, 1957 [renamed as Mines & Minerals (Development and Regulation) Act, 1957] and the provisions of the Rule 64A of the Mineral Concession Rules 1960 which empowers the Respondent/authorities to recover simple interest at the rate of 24% per annum on outstanding amount of royalty, dismissed the petition filed by the Petitioner therein. It is also clear that this Court in the aforesaid writ petitions relying upon the decision in the case of M/s. Haji Lal (supra) has held that the stay order passed by a Court does not prevent running of interest and in those circumstances upheld the recovery from the Petitioners. It is pertinent to note that similar view has again been taken by the Supreme Court in the case of M/s. Style (Dress Land) Vs. Union

Territory Chandigarh and Another, , in paragraph 15 in the following terms:

15. Regarding awarding of the interest by the High Court for the period of stay it is argued that as in Sahib Singh case no such direction was issued, the Appellants could not be burdened with the liability of paying the interest and that at the rate of 18% per annum it was excessive and exorbitant. It is a settled principle of law that as and when a party applies and obtains a stay from the Court of law, it is always at the risk and responsibility of the party applying. Mere passing of an order of stay cannot be presumed to be the conferment of any additional right upon the litigating party. This Court in Shree Chamundi Mopeds Ltd. Vs. Church of South India Trust Association CSI Cinod Secretariat, Madras, held that the said portion of order by the Court means only that such order would not be operative from the date of its passing. The order would not mean that the order stayed had been wiped out from existence. The order of stay granted pending disposal of a case comes to an end with the dismissal of a substantive proceeding and it is the duty of the Court in such cases to put the parties in the same position they would have been but for the interim orders of the Court. Again in Kanoria Chemicals and Industries Ltd. and Others Vs. U.P. State Electricity Board and Others, the Court held that the grant of stay had not the effect of relieving the litigants of their obligation to pay late payment with interest on the amount withheld by them when the writ petition was dismissed ultimately. Holding otherwise would be against public policy and the interests of justice. In Kashyap Zip Ind. Vs. Union of India (UOI) and Others, , interest was awarded to the Revenue for the duration of stay under the Court's order, since the Petitioners therein were found to have the benefit of keeping back the payment of duty under orders of the Court.

In view of the aforesaid facts and circumstances and the law laid down by the Supreme Court and this Court referred to in the preceding paragraphs, I am of the considered opinion that the impugned notices dated 20-1-1997, 14-3-1997 and 14-10-1997 seeking to recover simple interest at the rate of 24% per annum from the Petitioner in exercise of powers under Rule 64A of the Mineral Concession Rules, 1960 deserve to be and are hereby upheld.

In the facts and circumstances of the case there shall be no order as to costs.