

(2022) 12 CHH CK 0038

In the Chhattisgarh High Court

Case No : Writ Petition (C) No. 5637 Of 2022

M/S J.K. Rice Mill (Registration No.Ma418513)

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 16-12-2022

Acts Referred:

Citation : (2022) 12 CHH CK 0038

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Lavkush Kumar Sahu, Tushar Dhar Diwan, Vikas A. Shrivastava, Amrito Das, K. Rohan, Aditya Tiwari, Anand Shukla

Final Decision : Disposed Of

Judgement

1. The present Writ Petition has been filed by the Petitioner Mill for the following Relief(s):-

"10.1 That, the Hon'ble Court may kindly be pleased to quash the impugned Letter dated 6.12.2022 (Annexure P-7) issued by Respondent No.6 to Respondent No.7 for encashment of Bank Guarantee, consequently the Letter dated 9.12.2022 (Annexure P-9) issued by Respondent No.7 Bank to the Petitioner invoking the Bank Guarantee furnished by the Petitioner.

10.2 That, the Hon'ble Court may kindly further be pleased to direct the Respondents to consider the Letters submitted by the Petitioner and others (Annexure P-4 to P-6) for increasing the time only for 05 days to deposit the deficit quantity of Rice i.e. 255 M.T. and further be directed to register the Petitioner Mill for upcoming Custom Milling Year 2022-23.

10.3 That, the Hon'ble Court may kindly further be pleased to grant any other order/relief as deem fit and proper to the Petitioner, in the interest of justice."

2. The Petitioner is engaged in the operation of Rice Mill. The Petitioner entered into a memorandum of agreement with Respondents No.3, 5 & 6 for the custom

milling of paddy for the procurement year 2021-22. The last date for the supply of the milled rice in terms of the Agreement was 30.11.2022.

3. According to the Petitioner, out of total paddy that they had received from the concerned Respondents, they were required to return back 864.33 M.T. [631.33 M.T. (FCI Arwa) and 233 M.T. (Nan Arwa Rice)]. Out of the said, the Petitioner is said to have delivered 609 M.T. of rice and only around 255 M.T. of rice is remaining to be delivered by the Petitioner. Meanwhile, since there was a deficit of 255 M.T. of rice on the part of the Petitioner, the Respondents decided to encash the Bank Guarantee that has been furnished by the Petitioner, in making good the loss suffered by the Department.

4. Learned Counsel for Petitioner submits that for certain unavoidable practical difficulties faced by the Petitioner, the deficit of 255 M.T. of rice could not be supplied. Today, the learned Counsel for Petitioner gives an undertaking that given five days' time, the entire 255 M.T. of rice shall be delivered by the Petitioner to the concerned Respondents and meanwhile for this five days' time, the Respondents may be restrained from encashing the Bank Guarantee.

5. Learned Counsel for Petitioner further submits that in between they had tried to deliver the rice at the Respondents' destination but for the reason that the period had expired, the Respondents had not accepted the same. Given the five days' time, the entire deficit of 255 M.T. shall be made good.

6. Learned Counsel for Respondents No.3, 5 & 6 on the other hand submits that the Petitioner have been repeatedly praying for the same, but till date they have not made good the deficit in spite of the last date having come to an end almost three weeks ago i.e. on 30.11.2022.

7. Given the specific and clear undertaking by the Petitioner and also taking note of the fact that it is just five days' more time that the Petitioner is seeking for making the deficit good, in the larger interest of justice, five days' time is granted to the Petitioner starting from tomorrow for the same. The Respondents No.3, 5 & 6 are specifically directed to ensure that the supply of the deficit rice in between should be accepted against the deficit that the Petitioner has made and for this period of five days' time, the Respondents shall not make any endeavour in encashing the Bank Guarantee furnished by the Petitioner. However, if the Petitioner fails to make the deficit good within the extended period of five days' time starting from tomorrow, the Respondents would be free to take action. At the same time, it is directed that for this five days' time, the Respondents shall not create any hurdle in the way of the Petitioner in making the supplies.

8. Learned Counsel for Respondents submits that the Bank Guarantee has till date not been encashed. Nonetheless, if the Bank Guarantee is not encashed, it should not be encashed for this five days' time granted.

9. The Counsel for Respondents No.3, 5 & 6 is directed to issue necessary instructions without waiting the certified copy of this Order.

10. Writ Petition accordingly stands disposed of. CC Today.