
(2007) 03 AP CK 0060

In the Andhra Pradesh High Court

Case No : Writ Petition No. 28304 of 1997

Mysore Structural Ltd.

APPELLANT

Vs

Dy. Director of Mines and Geology and Another

RESPONDENT

Date of Decision : 07-03-2007

Acts Referred:

Andhra Pradesh Minor Mineral Concession Rules, 1966 — Rule 26

Citation : (2007) 4 ALD 531 : (2007) 3 ALT 610

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : A. Ramalingeswara Rao, for the Appellant; G.P. for Mines and Geology, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The petitioner is the manufacturer of concrete sleepers to be supplied to the Railways. It has established a manufacturing plant at Hafeezpet, Ranga Reddy District. On 26-7-1995, the second respondent inspected the plant/factory of the petitioner and found that a stock of 180 cubic meters of stone and metal was stocked in the factory yard. He issued a notice, dated 1-8-1995, requiring the petitioner to furnish the details of purchases of the material together with documentary proof. In response to this, the petitioner submitted a reply, dated 13-10-1995, and enclosed a statement of purchases made by it from 1-4-1994 to 30-9-1995. On receipt of this, the second respondent addressed a letter, dated 22-11-1995, to the petitioner, stating that the statement submitted by the petitioner accounts for payment of royalty for 2722 cubic meters, as against the total supplied quantity of 18,547 cubic meters. The petitioner was required to show cause as to why action should not be initiated as per Rule 26 of the A.P. Minor Mineral Concession Rules, 1966, (for short "the Rules") and penalty of five times seigniorage fee is not levied against it.

2. The petitioner submitted an explanation on 11-11-1995. Apart from other

aspects, the petitioner pleaded that basically it is the duty of the lessee to pay the seigniorage fee and the second respondent ought to have taken necessary steps against such lessee and that the proposed action be dropped. Not satisfied with this, the second respondent issued a demand notice, dated 29-1-1996, for a sum of Rs. 14,24,282/- representing the dues of seigniorage fee of Rs. 2,37,380/- and five times penalty of Rs. 11,86,902/-. The petitioner challenges the same.

3. Sri A. Ramalingeswar Rao, the learned Counsel for the petitioner, submits that his client had furnished the particulars not only of 183 cubic meters of material found on the site, but also of the purchases made by it over a period of two years together with bills and despite the same, the second respondent had raised the demand. He contends that though a user is also liable to pay the seignior age fee under Rule 26 of the Rules, the occasion would arise, if only, the material was procured otherwise than through a lessee under the Rules. He relied upon a judgment of a Full Bench of this Court in L. Venkateswara Rao and Others Vs. Singareni Collieries Company Ltd. and Others, .

4. Though ten years have elapsed, the respondents have not chosen to file any counter-affidavit.

5. The learned Government Pleader for Mines and Industries submits that the user of minor mineral is equally liable to pay the seigniorage fee as the extractor or holder of a quarry lease. He contends that the petitioner failed to produce the satisfactory material to show that mineral purchased by it had suffered payment of seigniorage fee.

6. The basis for initiation of proceedings against the petitioner was an inspection caused by the second respondent on 26-7-1995. To the extent he required the petitioner to furnish the particulars of purchase of the material, no exception can be taken. The petitioner had promptly complied with the direction and furnished particulars of the purchases made by them between 1-4-1994 and 30-9-1995. The second respondent did not dispute the genuineness of the bills. However, he raised a strange ground that part of the material covered by the bills has suffered royalty and the balance did not.

7. The various proceedings that emanated from the second respondent do not disclose that any effort was made, to verify from the suppliers of the material, as to whether the royalty/seigniorage fee was paid by them for the material supplied to the petitioner. The very purpose of granting leases under the Rules is to ensure that the minor mineral concerned, is extracted or utilized, on payment of royalty or seigniorage fee. Therefore, the basic obligation to pay the royalty or seiniorage fee lies with the person who is granted the licence. The obligation of a user to pay the seigniorage fee or royalty would arise, if only, it was procured through a source, other than a licensee under the Rules.

8. The second respondent appears to have thought that the petitioner is a soft target for extracting the money, having slept over or remained indifferent vis-a-vis the lessee. Such an action cannot be countenanced in law.

9. A Full Bench of this Court had an occasion to examine the validity of Rule 26 of the Rules in the context of demand being made against the persons other than the lessees. After discussing the matter at length, the Full Bench held that if a user or consumer produces the bills of purchase of the minor minerals from the lessee or authorized dealer, it shall be treated as sufficient proof of payment of royalty from his point of view. Obviously, the situation would warrant verification of the relevant facts from the lessee or authorized dealer. Instead of pursuing the recognized course, the second respondent had chosen to press the demand against the petitioner alone.

10. The impugned notice is, therefore, set aside and the writ petition is accordingly allowed. There shall be no order as to costs.