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IN THE COURT OF COLLECTOR CUM DISTRICT MAGISTRATE, BOKARO

Certificate Revision No.71/07

Deputy Commissioner, Commercial Taxes, Bokaro V/S-
Sri Hira Lal Gupta, Director M/s Bharat Re-Rolling Mill Pvt. Ltd., Bokaro
Industrial Area, B.S. City

ORDER

04/02/13
This Certificate revision has been filed by the Deputy Commissioner, Commercial Taxes, Bokaro against the order dated-21.07.2006 passed by the Sub-divisional Magistrate-Cum- Certificate Officer, Chas in certificate case no. 07/2003-04. The appellant has prayed to allow this certificate revision application and set aside the order dated-21.07.2006.

Heard the learned lawyer of petitioner and perused the written argument of the opposite parties and also the papers/documents available in the record.

The brief of the case is as below:-

The second party Sri Hira Lal Gupta, who is the Director of M/s Bharat Re-Rolling Mill Pvt. Ltd., Bokaro Industrial Area, B.S. City is the Certificate Debtor in this case and a Certificate case No.07/2003-04 has been drawn against him by the Requisitioning Officer/Certificate Holder (Dy. Commissioner, Commercial Taxes, Bokaro) for Rs 3320553.44 (Thirty three lakh twenty thousand five hundred fifty three rupees forty four paise) due against Certificate Debtor for the year 1992-93.

As per the facts available in the record M/s Bharat Re-Rolling Mill Pvt. Ltd, was granted deferment for payment of taxes under the provisions of Bihar Sales Tax Supplementary(Deferment of Taxes Rules 1990-91) for the period from 13.8.1989 to 12.5.1994 and again from 23.12.1992 to 22.12.1997. During these period the Certificate Debtor availed a total of Rs 1,17,31,879.72 (One Crore Seventeen Lakh Thirty One thousand Eight Hundred Seventy Nine Rupees and Seventy Two Paise) and Rs 3,60,39,295.85 (Three Crore Sixty Lakh Thirty Nine

Thousand Two Hundred Ninety Five Rupees and Eighty Five Paise) respectively as deferment of payment of taxes. The deferred amount of taxes liable to be repaid as per provisions as contained in Para 6 of the Bihar Sales tax Supplementary (Deferment of Tax) Rules 1991 which was implemented vide Notification No.S.O.102 dt 11.02.1991 U/s 23A of the Adopted Bihar Finance Act, 1981.

Similar other cases are also pending in this court with different certificate amounts. In this particular case, certificate amount is Rs. 3320553.44 (Thirty three lakh twenty thousand five hundred fifty three rupees forty four paise) which is calculated by the Certificate Holder/Dy. Commissioner, Commercial Taxes, Bokaro against Sri Hira Lal Gupta, Director of M/s Bharat Re-rolling Mills Pvt. Ltd., Bokaro Industrial Area, B.S.City.

From the perusal of the case record it is very well clear that the learned Certificate Officer on 07.02.2004 has passed the order to realize the aforesaid amount of Rs 3320553.44 (Thirty three lakh twenty thousand five hundred fifty three rupees forty four paise) within seven days from the date of order wherein it has further been ordered by the Learned Certificate Officer that in default of the payment of the amount of certificate, necessary action under the Bihar Certificate Manual will be initiated to realize the amount.

There after the certificate debtor adopted various delaying tactics in paying the amount. To realize the amount of certificate warrant of arrest had been issued against the Certificate Debtor/Sri Hira Lal Gupta vide order dated 20.05.2004 of Certificate Officer. The same order was challenged by the Certificate Debtor on the ground of not providing details of procedure of assessment of the certificate amount. Although the same assessment was submitted to the Certificate Officer's Court by the Dy. Commissioner, Commercial Taxes, the Certificate Holder in this case.

Thereafter on 21.07.2006 suddenly on the ground of not taking interest and not providing details of the certificate amount, the Certificate Officer-Cum-S.D.M, Chas had dropped the proceeding against Certificate Debtor Sri Hira Lal Gupta, Director of M/s Bharat Re-rolling Mills Pvt. Ltd., Bokaro Industrial Area.

This case has been filed by the Dy. Commissioner, Commercial taxes/Certificate Holder against the same order passed by the Certificate Officer -Cum-S.D.M, Chas on 21.7.2006.

Heard the learned lawyer of Certificate Holder and perused the written argument of Hira Lal Gupta, Director of M/s Bharat Re-rolling Mills Pvt. Ltd. The following points are there to be discussed:-

1. It is very well clear that the above certificate amount is the amount with respect to the deferred payment of taxes for the period from 1989 to 1994 to be paid by the Certificate Debtor Sri Hira Lal Gupta. As per para 6 of the Bihar Sales Tax Supplementary (Deferment of Tax) Rules 1991. The differed payment is liable to be paid to the department. The Dy. Commissioner Commercial Taxes has also passed the order under the same on 23.04.2004 to pay the differed amount of taxes to the opposite party. Earller the Certiflcate Debtor M/s Bharat Re-rolling Mills Pvt. Ltd had filed the writ petition on 24.7.1998 before the then Hon'ble Patna High Court, Ranchi Bench as CWJC 2025 (R)/1998. In C.W.J.C. no. 150/ of 1990 the judgment passed on 22.09.2003 the Hon'ble High Court, Ranchi had dismissed the petition of the Certificate Debtor Sri Hira Lal Gupt, the prop. of M/s Bharat Re-rolling Mills Pvt. Ltd and passed the order and directed the Department of Commercial Taxes to recover whatever amount is due to the petitioner towards it liability under the statute.

2. In spite of that clear cut order passed by the Jharkhand High Court, Ranchi, quashing the entire proceeding by the learned SDM-cum-Certificate Officer on the flimsy ground is appears to be miscarriage of justice. It is well known fact that the amount due over the certificate Debtor Sri Hira Lal Gupta is government dues and due diligent had to be taken in the part of Certificate Officer before quashing the entire proceeding on flimsy grounds.
3. The main contention of the opposite party Sri Hira Lal Gupta for revision of the order dated 21.7.2006 passed by the SDO-cum-Certificate Officer, Chas in Certificate Case No.07/2003-04 on the point of filing of application after the expiry of time fixed U/s 3 of the Limitation Act 1963. But I think the ground put forth by the Certificate Holder and realizing that it was the huge amount of Govt. dues on Certificate Debtor, the delay is condonable

Another point which was raised by the Certificate Debtor Sri Hira Lal Gupta regarding not giving the details of the assessment, but going through the record it is clear that the amount was assessed by the competent officer of the Commercial Taxes Department and the same was communicated to the Certificate Debtor/Sri Hira Lal Gupta and to the court of Certificate Officer on 09.09.2004. Therefore, this point cannot go in favor of Certificate Debtor Sri Hira Lal Gupta.

4. Under the Clause 17 of Board's instruction regarding Public Demand Recovery Act it is categorically mandated:- "A Certificate once signed remains valid as a decree against the debtor until it is either legally set aside or fully satisfied or until the execution of it has become barred under the law and rules applicable to the execution may be had on it;

but it will still remain valid for what may still remain due. A certificate should therefore, continue to be borne on the pending files and the registers of the certificate office until it has ceased to be effective for one or other of the above reasons". In spite of that order the learned court below has illegally terminated the entire certificate proceeding and dropped the same only on the ground that no detail statement of account had been submitted by the certificate holder although the detail statement had already been submitted by the petitioner /certificate holder on 09.09.2004 itself and the same finds place in the order sheet of the proceeding dated 18.10.2004 and thus the entire order is vitiated due to non appraisal of the documents of the proceeding by the learned court .

5. It is also apparent from the record that the learned court of Certificate Officer has turned down several process of attachment ignoring the order passed by the same court in a casual manner and also recalled the order of warrant of arrest for the reasons not legally tenable in the facts and circumstances of the case.
6. The learned court of SDM-cum-Certificate Officer has also not considered that the Hon'ble High Court of Jharkhand has passed an order in CWJC 1507/1990 dated -22.9.2003 in which the Hon'ble court has ordered the Commercial Taxes Department to realize the whatever Government dues is pending against the Certificate Debtor. It is pertinent to mention here that the Opposite Party Sri Hira Lal Gupta has again moved to the Hon'ble Patna High Court, Ranchi Bench in CWJC 2025/1998 in which no direction/order was given by the Hon'ble Court for not realizing the certificate amount from the Certificate Debtor.

7. U/s-7 of the Bihar & Orissa Public Demand Recovery Act 1914, an interest of 12% upon the public demand to which the certificate relates is to be charged over the principle amount from the date of signing of the certificate up to the date of realizing the certificate. The above certificate with an amount of Rs. 3320553.44 (Thirty Three lakh Twenty thousand Five hundred Fifty Three Rupee and Forty Four Paisa) has been filed in the year 2003. Therefore, calculating 12% compound interest from that date onward to this date i.e on 4.12.2012. The total amount will be Rs.9207894.68 (Rupees Ninety Two lakh Seven thousand Eight hundred Ninety Four and paise Sixty Eight) only.

Considering the above facts and in compliance of the order passed by the Hon'ble Court in CWJC 1507/1990, dated-22.09.2003 the Certificate Debtor is ordered to pay the total certificate amount of Rs 9207894.68 (Rupees Ninety Two lakh Seven thousand Eight hundred Ninety Four and paise Sixty Eight) which is inclusive of the 12% compound interest from the date of signing of certificate to the date. If the certificates Debtor will not pay the above amount within two months from the date of passing of order further 12% extra compound interest will be charged from the Certificate Debtor on the amount as calculated above.

If the amount is not paid by the Certificate Debtor i.e. Prop. of M/s Bharat Re-Rolling Mill Pvt. Ltd., Bokaro Industrial Area, B.S. City within two months of passing of this order than warrant of arrest will be issued and attachment of immovable properties will be made to realize the above government dues.

Inform to all concerned for compliance of order

Dictated and corrected

Collector-Cum-
District Magistrate,
Bokaro.

Collector-Cum-
District Magistrate,
Bokaro.

Certificate copy - filed - SO CIVIL

17/11/13

इंग्लैंड गणराज्य, पास के पत्रांक 175 लांक
17/11/13 के पाछे आदेश का तारीख मल्लिकार्जुन राय
है।

मीमास्त्र पदक इत्य कार्य में लक्ष्य है।

[Signature]
प्रभाकर पदक

Q. 92/13
Issued vide
dated. 6/5/13