

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE MS. RITU BAHRI
AND
HON'BLE SRI JUSTICE PANKAJ PUROHIT

18TH MARCH, 2024

SPECIAL APPEAL No.574 OF 2015

State of Uttarakhand and others.

...Appellants

Versus

M/s Nutech Vainish Udyog, Munikireti and others.

...Respondents

Counsel for the appellant/State. : Mr. K.N. Joshi, learned Deputy Advocate General.

Counsel for respondent. : Mr. B.P. Nautiyal, learned senior counsel assisted by Mr. Mohd. Matloob, learned counsel.

JUDGMENT : (per Ms. Ritu Bahri, C.J.)

Heard learned counsels for the parties at length.

2. A perusal of the order dated 14.09.2015, passed by the learned Single Judge, shows that the learned Single Judge had examined the Annexure No.5, dated 02.03.2007, wherein, it had been observed that the stamp duty shall be recovered on the sale certificate subject to the final decision of the writ petition before the Hon'ble Supreme Court.

3. This Court has again perused the Annexure No.5, at page no.33, of the paper book where the observations made by the learned Single Bench is also reflected in the order Annexure No.5. Once the Department themselves has admitted that they have accepted the stamp duty subject to the final decision of the Hon'ble Supreme Court, and the Supreme Court decision has now come that only 2% stamp duty can be recovered, respondents-State will refund the amount accepted beyond 2%.

4. In the counter affidavit filed, by the State, at page no.73, it is mentioned that the appellant-State has deposited the draft of 7.4%, and the number of draft has also given along with the cost amount of Rs.208350/-, which is reproduced as under: -

लीसा लौट लेखा.....टिहरी..... वन प्रभाग

पत्राक..... नीलाम..... दिनांक 314/9
31-10-07

- | | | | |
|-----------------------------|--|-------------------|----------|
| 1- उपज | 2006 | 2- नीलाम की तिथि | 18.8.07 |
| 3- लौट सं० | 424, 425/07-08 | 4- लीसा की मात्रा | 200 कु०. |
| 5- नाम क्रेता | मै० सुरेन्द्रा केमिकल्स, ढालवाला | | |
| 6- लीसा दर | 2250 | 7- मूल्य | 450000/- |
| 8- अनुमोदन | वन संरक्षक भागीरथी वृत्त पत्रांक 627/9-9 दि०-30.8.07 | | |
| 9- लीसा उठाने की अंतिम तिथि | | | |

विवरण	बैंक ड्राफ्ट/ट्रेजरी चालान सं० तिथि	धनराशि
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10- मूल्य वसूली	92.60% ड्राफ्ट सं० 605805 दि०-9.10.07 एस०बी०आई० ऋषिकेश 606029 दि०-19.10.07 एस०बी०आई० ऋषिकेश 7.4% ड्राफ्ट सं० 605806 दि०-9.10.07 606030 दि०-19.10.07 एस०बी०आई० ऋषिकेश एस०बी०आई० ऋषिकेश	208350.00 208350.00 16650.00 16650.00 450000.00
11- विलम्ब शुल्क		
12-जिला परिषद् लाभांश 5/-प्रति कुन्तल	645808 दि०-9.10.07 एस०बी०आई० ऋषिकेश	1000.00
13. मण्डी समिति शुल्क 2.5 प्रतिशत	चैक सं० 0057402 दि० 19.10.07 एस०बी०आई० ऋषिकेश	11275.00
14-व्यापार कर (1) फर्म की पंजीकरण सं.	4 % वाणिज्य कर ड्राफ्ट सं० 605807 दि०-9.10.07 एस०बी०आई० ऋषिकेश ड्राफ्ट सं० 606031 दि०-19.10.07 एस०बी०आई० ऋषिकेश	10483.00 10483.00
(2) बिक्री कर	केन्द्रीय उत्पादन शुल्क चा0नं0 9122410/154 दि०-27.10.07	74160.00
15- आयकर - फर्म द्वारा प्रस्तुत		
16-सम्पूर्ति विवरण	रवन्ना सं० तिथि टिनों की संख्या 47/20 दि० 9.10.07 613 50/20 दि० 19.10.07 623	गोल वजन कुन्तल में शुद्ध वजन कुन्तल में 106.13 100.00 106.23 100.00

संलग्नक

- 1- लौट लेखा प्रभागीय वनाधिकारी टिहरी वन प्रभाग की सेवा में मय संलग्नक के आवश्यक कार्यवाही हेतु प्रेषित।
- 2- 92.6% ड्राफ्ट - 2 नं०
7.4% ड्राफ्ट - 2 नं०
- 3- जिला परिषद - 1 नं०
- 4- 4% बैट- 2 नं०
निकासी रवन्ना - 2 नं०
- योग- 9 नं०

ह० अस्पष्ट

लीसा भण्डार अधिकारी
ऋषिकेश।

5. Since this amount has already been deposited, no ground is made out to interfere in the judgment of

the learned Single Judge. The special appeal is dismissed. The State shall refund the excess stamp duty to the respondent petitioner.

RITU BAHRI, C.J.

PANKAJ PUROHIT, J.

Dt: 18th March, 2024
NR