

ITEM NO.102

COURT NO.10

SECTION IX

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 4415 OF 1999

BHANDARI FOILS PVT. LTD. & ANR.

Appellant (s)

VERSUS

ASST. COMMNR., COMMERCIAL TAX, M.P. & ORS

Respondent(s)

(With office report )

Date: 22/03/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN KUMAR

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Appellant(s)

Mr. Ranjit Kumar, Sr.Adv.

Ms. Meenakshi Arora, Adv.

Mr. Haresh Mehta, Adv.

Ms. Poli Katakia, Adv.

For Respondent(s)

Ms. Vibha Datta Makhija, Adv.

Mr. Bharat Sangal, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is disposed of.

(S. Thapar)

(Phoolan Wati Arora)

PS to Registrar

Court Master

The signed order is placed on the file.

2

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4415 OF 1999

Bhandari Foils Pvt. Ltd. & Another  
Appellant (s)

Appell

Versus

Asst. Commnr., Commercial Tax, M.P. & Ors.  
Respondent (s)

O R D E R

The appellant before this Court is an auction purchaser of properties, land, plant

and machinery etc. belonging to a Company known as M/s R.J. Clad Metals Ltd.,  
respondent

No.6 in this appeal. There were some dues claimed by the Commercial Tax Department of the

State of Madhya Pradesh regarding Sales Tax and Entry tax against M/s R.J. Clad Metals Ltd.

The department initiated steps to realize its dues against the properties and assets of M/s R.J.

Clad Metals Limited. However, by this time the auction of the said properties of the Company

i.e., land, plant and machinery etc. had already taken place and the appellant was the successful

auction purchaser. Actually the auction had taken place on 31st January, 1995 which was

confirmed on 15th February, 1995. A sale certificate with respect to the properties purchase by

the appellant was issued on 3rd March, 1995 in its favour and possession of the purchased

properties was delivered on the same date to the appellant.

On 18th September, 1995 the Sales Tax Department of the State of Madhya Pradesh,

Respondent No.1 herein, moved the High Court of Bombay for Notice of Motion for payment of

its dues and praying for the attachment and sale of the said properties. While the Notice of

Motion was pending, the respondent issued a sale proclamation on 6th February, 1996 with

3

respect to the properties already purchased by the appellant. The appellant thereafter took out a

Notice of Motion on 7th March, 1996 for stay of the sale. This Notice of Motion was, however,

rejected by a learned Single Judge of the High Court of Bombay vide Order dated 5th December,

1997. Appeal against the said order met the same fate and it was dismissed by Order dated 3rd

March, 1998. The present appeal is directed against the said Order of the Division Bench of the

High Court of Bombay.

At this stage we may note that vide letter dated 18th January, 1995 addressed to the

Court Receiver of the High Court of Bombay, respondent No.1 had claimed a sum of

Rs.36,93,101/- as total amount due to the department from M/s R.J. Clad Metals Limited. In the

Notice of Motion dated 18th September, 1995 the amount said to be due to the department was

increased to be Rs.71,08,409/- including interest. Out of sale proceeds of the auction which had

taken place on 31st January, 1995, in which the appellant was a successful purchaser, the

department had admittedly received Rs.42,72,005/- towards its aforesaid claim in pursuance of

order of payment passed on 20th August, 1996 by the learned Single Judge of the High Court of

Bombay.

During the course of hearing of the present appeal the learned counsel appearing

for respondent No.1 submitted, at the outset, that she had instructions from the department that

at present a sum of Rs.10,50,008/- only on account of tax and interest is due from the assessee to

the department and if the said amount is paid, the entire claim of the department against the

assessee (M/s R.J. Clad Metals Limited) would stand satisfied. The learned counsel produced a

FAX copy of the letter issued from the Office of Assistant Commercial Tax, Dewas (M.P.)  
The

letter is purported to be signed by Mr. Jaidev Sharma, Assistant Commissioner. The learned

counsel appearing for respondent No.1 has confirmed that she has received this FAX message

and she had definite instructions that if the amount of Rs.10,50,008/- is paid to the department,

the department would not proceed against the properties of M/s R.J. Clad Metals Limited

4

purchased by the auction purchaser which are the subject matter of the present appeal. The

learned counsel appearing for the appellant, on instructions, has submitted that his client is

willing to pay the said amount with the assurance that no further claims will be made by the

department against the properties purchased by the appellant in the said auction. The learned

counsel for the appellant says that in order to buy peace, his client is ready to pay the amount,

even though in law the appellant is not liable to pay any such amount. The learned counsel for

the respondent - department assures that so far as the present claim against the assessee (M/s

R.J. Clad Metals Limited) is concerned, the final figure is Rs.10,50,008/- and the said amount

includes dues on account of tax as well as interest. If the said amount is paid, the department

will not raise any further claim on any account whatsoever against the assets of M/s R.J. Clad

Metals Limited purchased by the appellant.

Accordingly, the appellant is allowed to pay the said amount of Rs.10,50,008/-

within three months from today and with that payment being made by the appellant to

respondent No.1, the entire claim of respondent No.1 including interest etc . against M/s R.J.

Clad Metals Limited, sought to be enforced against the properties purchased by the appellant,

will stand satisfied and there will be no further liability on that account. It is made clear that the

above arrangement is without prejudice to the rights and contentions of both the parties.

The appeal is disposed of accordingly.

.....J

.....

(ARUN KUMAR)

.....J

.....

(R.V. RAVEENDR

AN)

New Delhi,