

**In the Court of Mines Commissioner, Bihar, Patna**

**Dated 05.10.2017**

Revision Case No – 08/2015  
District – Jehanabad

PRESENT :- **K.K. Pathak, I.A.S.,  
Mines Commissioner**

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**Starnet Marketing Pvt. Ltd.**

**Vs.**

**Collector, Jehanabad**

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**ORDER**

05.10.2017

This is a revision application filed by the Revisionist against the order passed by the Learned Collector on 18.06.2015.

The Revision Application was filed on 06.11.2015 with the delay of 71 days. The reason given by the Revisionist was that he was not well and hence he could not file the revision in time.

The then Learned Mines Commissioner condoned the delay and admitted the Petition for hearing on 06.11.2015. Since then, numerous dates were given in the matter. The report from the Learned Collector was obtained and the matter was posted for hearing.

The matter was part heard by the then Learned Mines Commissioner on 09.06.2016. On that date, the Revisionist requested that he was to produce some more documents in support of his case and therefore, requested another date.

Accordingly, the then Learned Mines Commissioner posted the matter for 23.06.2016 but he has not filed any papers with regard to his contention. Since then various dates have been given and more than a year has passed without any progress in the case.

In the meantime, the case came up for hearing on 04.09.2017 where the Revisionist was absent. On the next date, i.e. 11.09.2017, he appeared and mentioned that his Advocate is not well and sought more time. However, on the next date, on 18.09.2017, the Revisionist again pleaded that his lawyer still is not well and requested another date. The case was adjourned for the third time on 03.10.2017. On 03.10.2017, again the Revisionist appeared and requested an adjournment on the ground that his lawyer is still not well.

This Court, however, now is inclined to reject any request for further extension as the matter has been going on for the last more than two years. It appears that, by seeking continuous adjournments, the Revisionist is trying to delay the matter. That be the case, the matter cannot be allowed to extend indefinitely and accordingly, is posted for order ex-parte.

However, I note that, apart from the Revision Application, the Revisionist has already filed a Rejoinder to the comments filed by the Deputy Director, Mines and the comments filed by the Learned Collector, Jehanabad. The said Rejoinder was filed on 16.01.2016. I also note that the Revisionist has also filed a written note of argument on 01.07.2017. Therefore, this Court is satisfied that there are enough materials available on record to sufficiently present the case of the Revisionist.

Based on the papers available on record and based on the averments made by the Revisionist in his Revision Application and the Rejoinder and the written notes of argument, my own findings on the matter are as under:-

- (a) By the impugned order, the Learned Collector upheld the order of the Competent Authority issued vide Letter No. 237 dated 14.03.2015 asking the Revisionist to pay Rs. 2.18 crores on account of various dues for the year 2011 and 2012.
- (b) I find that the Learned Collector has passed the detailed order after hearing the Learned Advocate of the Revisionist.

(c) It appears that aforementioned demand of Rs. 2.18 crores arose as under:-

***Year – 2011***

- For Registration – Rs. 11.08 lakhs
- For transport challan – Rs. 2200
- Excess mining – Rs. 39.45 lakhs
- Interest – Rs. 38.68 lakhs
- Total – Rs. 89.24 lakhs

***Year – 2012***

- For Registration – Rs. 13.27 lakhs
  - Settlement – Rs 32.24 lakhs
  - Security – Rs 27.70 lakhs
  - Interest – Rs. 56.10 lakhs
  - Total – Rs. 1.29 crores
- ***Grand Total for Two Years - Rs. 2.18 crores.***

(d) With regard to the Registration fee, the contention of the Revisionist is that the Registration fee is payable only when the settlement is for more than one year. If the settlement is for less than one year, then the registration is not necessary. Now, the Revisionist is claiming that he got the settlement for two years vide two different work orders. For the year 2011, the work order was issued vide Letter No. 813 dated 30.12.2010. For the year 2012, the work order was issued vide Letter No.

745 dated 31.12.2011. When read with the condition that execution of Agreement should be done within 30 days, he claims that the period of settlement is less than one year and hence, the demand raised by the Competent Authority is not maintainable. He, therefore, finds that the settlement was effective on yearly basis.

- (e) My own view is to the contrary. In the original Notice Inviting Tender, it was clearly mentioned that the settlement was for two years. It was also clearly mentioned that the Agreement will be done every year because there was provision for enhancement of settlement amount for the next year.
- (f) Therefore, to interpret it as a one-year-settlement by the Revisionist is fallacious and also mischievous. The attempt by the Revisionist to split this two-year tender into two one-year tenders cannot be accepted. Nor is the logic acceptable that since these are two work orders, these should be treated as two different settlements.

- (g) Therefore, the averments made by the Settlee that, the settlement was effective on yearly basis are not correct.
- (h) The settlement was for a two-year-period, only, the formalities were to be executed every year so that stamp/registration fee is paid by the Revisionist every year.
- (i) This, therefore, does not mean that the settlement, per se, was for only one year. That be the case, this argument of the Revisionist cannot be accepted.
- (j) Coming to the second issue of the settlement amount of Rs. 33.24 lakhs to be recovered from the Revisionist, the Revisionist has claimed that Rs. 3.32 crores has already been paid by him by three different demand drafts and hence no settlement amount is payable by him.
- (k) However, as per the papers available, it seems that the Settlee was still required to pay Rs. 33.24 lakhs as this was amount which is still recoverable from the Settlee.

- (l) Similarly, with regard to the security deposit, the Settlee was required to deposit Rs. 33.24 lakhs whereas he deposited only Rs. 5.54 lakhs and thus Rs. 27.70 lakhs was still pending with him.
- (m) The calculation with regard to the transport challan is also very clear. The Settlee had received 822 books for which Rs. 1.822 lakhs were required to be deposited by him. Against this amount, the Settlee has deposited Rs. 1.8 lakhs and therefore, Rs. 2200 is still payable by him. This demand has been accepted by the Settlee also.
- (n) Coming to the important issue of excess sand excavation and lifting, the Revisionist denies that he has violated the settlement amount for the calendar year 2011. He says that as per the monthly return, 1.86 crores CFT sand was extracted in the calendar year 2011.
- (o) The calculation made by the Department, however, is different. The Department disagrees with the averment made by the

Revisionist that, for one month, i.e. the month of November 2011, due to clerical mistake 1.79 crores CFT was shown to be the extracted sand, whereas the actual figure is 19.1 lakhs CFT. This is a clerical mistake as per the Revisionist.

- (p) However, the Mining Officer denies this averment and mentioned that the said entry of 1.79 crore CFT is a valid entry and not a clerical error as the same figure appears in all the four columns of the return.
- (q) Moreover, when the Settlee was asked to submit his return for the month of November to the Mining Office for inspection, he categorically refused to do the same.
- (r) I am, therefore, inclined to agree to the averments made by the Department. If the Settlee was indeed clean, he should have presented his monthly return and the relevant papers including the '*Preshan Panji*' for the month of November 2011.
- (s) Therefore, in the absence of the cooperation from the Revisionist, the



Competent Authority was correct in holding that he excavated the sand far in excess of his authorised limit.

**Conclusion:-**

Thus from the aforementioned findings, it is clear that the Revisionist has been unable to satisfy this Court on any of the component raised in the demand letter issued by the Competent Authority vide his Letter No. 237 dated 14.03.2015. The Revisionist did not present his papers for inspection relating to the period of November 2011 before the Competent Authority.

Revisionist, also, with a mischievous intent, tried to interpret his settlement period to be one-year-period of two phases, whereas, it was a clear Settlement of two years.

Thus, I find the Revisionist has been trying to interpret the clauses to his convenience and deliberately trying to cause wrongful loss to the state exchequer. His attempt to stone wall any inspection of his papers raises doubts on his intention and credibility.

By continuously trying to remain absent in this Revision case, the Settlee also tried his level best to delay the final adjudication of this Revision Application.

For the reasons mentioned above, I find that the Revision Application has no merits and accordingly, I dismiss the same and uphold the order of the Learned Collector dated 18.06.2015

Revision Dismissed.

The Learned Collector, Jehanabd is directed to proceed further for recovery of Rs. 2.18 crores and initiating certificate proceeding and/or criminal proceedings for recovering the same and also for refusal by the Revisionist to allow inspection of his records.

**Dictated & Corrected**

**Sd/-  
(K.K. Pathak)  
Mines Commissioner  
Mines and Geology Department,  
Bihar**

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(K.K. Pathak)  
Mines Commissioner  
Mines and Geology Department,  
Bihar**

Memo No.-.....30/4...../M, Patna, Dated-.....9/10/17.....

Copy to :- Collector, Jahanabad/ Mines Inspector, Jahanabad/ Starnet Marketing Pvt. Ltd., Director-Sadashiv Prasad Singh, S/o-Shri Maleshwar Singh, Res. - 301B S.B. Residensi, Raza Bazar, Near-Mangal Market, P.S. Shashtri Nagar, Patna / I.T. Manager, Mines & Geology Dept. Patna for information and necessary action.

M

Under Secretary to Govt.