

SUPREME COURT OF INDIA

State of U.P.

Vs.

Hindustan Unilevers

C.A.No.6126 of 2008

(R.V. Raveendran JJ.)

15.10.2008

ORDER

1. Leave granted. Heard the learned counsel.

2. The U.P. Cooperative Spinning Mills Federation Ltd. (hereinafter 'Federation', for short) invited applications for private placement of debenture bonds in the year 1998 representing that the repayment thereof was unconditionally and irrevocably guaranteed by the U.P. Government. The State Government issued Government Order dated 12.8.1998 guaranteeing the repayment of the principal and interest in respect of debenture bonds issued by the U.P. Cooperative Spinning Mills Federation Ltd.

3. Acting on the invitation for private placement of applications, and in view of the guarantee by the State Government, the first respondent invested Rs.15,00,000/- (Rupees fifteen lakhs only) from the provident fund deposits of its employees, in the said bonds. The Federation issued an allotment letter dated 25.12.1998 confirming that the amount invested will carry interest @ 14.9% p.a. and the bonds will be redeemed at the end of 48 months, 54 months and 60 months at the rate of 33%, 33% and 34% respectively.

4. The Federation sustained losses and went under liquidation. It did not redeem the bonds as agreed and undertaken, inspite of demands. The amounts due were not paid except part payment of Rs.1,73,980/- and Rs.1,15,118/- in all Rs.2,89,098/- towards interest. As the amounts due under the bonds and interest were not paid by the State Government in terms of guarantee, inspite of demand for payment, the respondent approached the Delhi High Court for relief. The High Court, by order dated 21.11.2005, directed the State Government, as guarantor, to pay the sum of Rs.15,00,000/- (Rupees fifteen lakhs) with interest at the rate of 14.9% (the rate agreed under the bonds) less amounts already paid. The said order is challenged in these two appeals by the State Government and the Federation.

5. Though several contentions were urged by the State Government and the Federation, when the matter came up today, the learned counsel for the State Government handed over a Pay Order for Rs.15,00,000/- (Rupees fifteen lakhs) to the learned counsel for respondent

towards the refund of the principal amount. In regard to interest, the learned counsel for the Federation and the State Government submitted that as the Federation is under liquidation and as the State Government has paid the principal amount, the respondent should be relegated to other remedies in law for recovery of interest.

6. Such a contention is not tenable. The amount invested by first respondent belongs to the workmen of first respondent. The amount was invested in the bonds of the Federation in view of the express guarantee by the State Government that the same will be repaid with interest upto 15.5% p.a. The very purpose of the State Government guarantee is to ensure payment in case the Federation was not able to make payment. In the circumstances, the fact that the Federation is in financial difficulties cannot be a ground for the State Government to say that it will not make payment of interest, even though it had guaranteed the repayment with interest. If such a contention is accepted, the very purpose of the guarantee will be defeated. We are indeed surprised that such a plea is put forward on behalf of the State of Uttar Pradesh.

7. In the circumstances, we are of the view that the State Government should pay the interest also. However, on the facts and circumstances, we are of the view that interest should be paid at the rate of 14.9% p.a. for a period of five years from the date of deposit and thereafter at the rate of 9.5% per annum (which is equal to the minimum rate of interest that is payable by the first respondent to its workers on the provident fund dues). The above concession regarding interest is granted on the peculiar facts of these appeals. Three months' time is granted to the Government of Uttar Pradesh to pay the balance of interest.

8. Appeals are disposed of accordingly. Parties to bear their respective costs.