

## **R.B.H.M. Jute Mills, Katihar And Ors. vs Certificate Officer, Katihar And Ors. on 13 October, 1966**

**Equivalent citations:** AIR1967SC400, 1967(0)BLJR242, [1967]19STC151(SC), AIR 1967 SUPREME COURT 400, 1967 BLJR 242, 1967 SCD 759, 1967 (19) STC 151, 1968 (1) SCR 625, 1968 (1) SCWR 540, 33 CUTLT 841, ILR 46 PAT 703, 1970 BOM LR 810

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**Bench:** K. Subba Rao, R.S. Bachawat, J.M. Shelat

### JUDGMENT

R.S. Bachawat, J.

1. The appellant, a registered dealer under the Bihar Sales Tax Act, was assessed to pay sales tax for four different periods. The arrears of taxes were public demands within Section 3 (6) read with item 3, Schedule 1 of the Bihar and Orissa Public Demands Recovery Act, 1914 (B. and O. Act No. 4 of 1914). On the requisition of the Superintendent, Sales Tax, Purnea, the Certificate Officer, Purnea, signed and filed four certificates under Section 6 of the Act stating that the demands were due from the appellant. The certificates were put in execution. In the course of the execution proceedings, the appellant paid the principal amounts of the certificates. The Certificate Officer claimed payment of the interest due on the certificates. The appellant filed objections disputing its liability to pay any interest. By his orders, dated March 20, 1958, the Certificate Officer dismissed the objections. The appellant filed four writ applications challenging these orders. The Patna High Court dismissed the writ applications. The appellant now appeals to this Court by special leave.

2. A certificate signed and filed under Section 6 of the Bihar and Orissa Public Demands Recovery Act, 1914 has the effect of a decree passed by the Certificate Officer and is executable as such, subject to the provisions of the Act. Section 17 (a) of the Act provides that there shall be recoverable in the proceedings in execution of every certificate filed under the Act, interest upon the public demand to which the certificate relates, at the rate of 6% per cent per annum from the date of the signing of the certificate up to the date of the realisation. In view of Section 17(a), simple interest at the prescribed rate is payable on the principal amount of the certificate, and is recoverable in the proceedings in execution thereof. It was suggested in argument that the certificate-holder has no right to claim interest unless assets are realised by sale or otherwise in execution of the certificate and are disposed of in accordance with Section 32 of the Act. This suggestion is baseless. Section 32 lays down the mode of disposal of the proceeds of execution and the priorities to be observed in such disposal. Out of the proceeds of execution, the certificate-holder is entitled to payment of the

amount of the certificate, interest and costs. His right to claim interest is given by Section 17. Interest on the unpaid principal amount runs from the date of the certificate, and the certificate-holder is entitled to recover the interest in the execution proceedings. The certificate-debtor cannot escape liability to pay the accrued interest by paying the principal amount of the certificate. If any interest has accrued due and is outstanding, the certificate-holder is entitled to realise it by executing the certificate. The question as to how much is due from the appellant on account of interest is not in issue in these appeals, and we express no opinion on it.

3. The appeals are dismissed with costs, one hearing fee.