

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 9311 of 2015 (L)

PETITIONER(S):

**M/S.POABS GRANITE PRODUCTS PVT. LTD.
CHULLI P.O., ANGAMALY, ERNAKULAM DISTRICT
REPRESENTED BY ITS MANAGING DIRECTOR, JOSEPH JACOB
RESIDING AT PANACHAYIL HOSUE, KUTTOOR P.O.
THIRUVALLA.**

BY ADV. SRI.N.JAMES KOSHY

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY
INDUSTRIES (A) DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001.**
- 2. THE DIRECTOR OF MINING AND GEOLOGY
GOVERNMENT OF KERALA, KESAVADASAPURAM, PATTOM P.O.
THIRUVANANTHAPURAM-695 001.**
- 3. THE GEOLOGIST
DEPARTMENT OF MINING AND GEOLOGY, DISTRICT OFFICE
CIVIL STATION, KAKKANAD, ERNAKULAM-682 030.**

BY SENIOR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE REGISTRATION CERTIFICATE NO.58/2014-15/RMCU/EKM/3069/M3/2014 DATED 31/3/2014 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER**
- EXT.P2. TRUE COPY OF THE CHALLAN DATED 30/3/2014 PAYING ROYALTY FOR THE YEAR 2014-15 IN RESPECT OF CRUSHER UNIT.**
- EXT.P3. TRUE COPY OF THE SCHEDULE -IV, THE CONSOLIDATED ROYALTY .**
- EXT.P4. TRUE COPY OF THE G.O.(P) NO.1/2015/ID DATED 5/1/2015 ISSUED BY THE 1ST RESPONDENT**
- EXT.P5. TRUE COPY OF THE NOTICE NO.DOE/899/E2/15 DATED 21/2/2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER**
- EXT.P6. TRUE COPY OF THE DETAILS OF THE ROYALTY PAYABLE BY THE PETITIONER DURING THE YEAR 2014-15.**
- EXT.P7. TRUE COPY OF THE OBJECTION DATED 13/3/2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 9311 of 2015

Dated this the 24th day of March, 2015

JUDGMENT

The petitioner is mainly aggrieved of the enhancement of the 'consolidated royalty' as per Ext.P4 dated 5.01.2015. The learned counsel for the petitioner points out that, by virtue of the amendment of the KMMC Rules, 2015 brought into force from the date of said notification as given in Ext.P4, the 'consolidated royalty' has been enhanced in the case of the petitioner to an unconscionable extent. The petitioner has been served with Ext.P5 notice dated 21.02.2015 to satisfy the amount as above, which made the petitioner to approach this Court by filing this writ petition. It is also stated that the petitioner has already filed Ext.P7 statement of objections in response to Ext.P5, which however is still to be acted upon.

2. Heard the learned Government Pleader as well.

3. During the course of hearing, the learned counsel for the petitioner submits that, Ext.P4 amendment does not have any retrospective effect and the same will come into effect only after

the date of notification and as such, the liability of the petitioner can only be from 5.1.2015 to 31.3.2015 which according to the petitioner is only to the tune of ₹2 lakhs as given in Ext.P6 statement.

4. After hearing both the sides, the writ petition is disposed of directing the 3rd respondent to consider Ext.P7 objection in response to Ext.P5 and pass appropriate orders after affording an opportunity of hearing to the petitioner at the earliest, at any rate, within 'six weeks' from the date of receipt of a copy of this judgment. Coercive proceedings, if any shall be kept in abeyance till such time, subject to satisfaction of the admitted liability of ₹2 lakhs, to be effected within 'ten days' from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the 3rd respondent for further steps

**P.R. RAMACHANDRA MENON,
JUDGE.**