

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9457 of 2015 (F)

PETITIONER:

**M/S.POABS ENTERPRISES PVT.LTD.
KUTTOOR P.O., WEST OTHARA, THIRUVALLA
PATHANAMTHITTA DISTRICT,
REPRESENTED BY ITS MANAGING DIRECTOR, JOSEPH JACOB,
RESIDING AT PANACHAYIL HOUSE, KUTTOOR P.O., THIRUVALLA.**

BY ADV. SRI.N.JAMES KOSHY

RESPONDENT(S)/RESPONDENTS:

- 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,
KESAVANIKETHAN, ASRAMAM P.O., KOLLAM - 691 002.**

R1 TO R3 BY (SR) GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 9457 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE REGISTRATION CERTIFICATE NO. 61/2014-15/RMCU/KLM/3074/M3/2014 DATED 31/03/2014 ISSUED BY THE 3RD RESPONDENT TO PETITIONER.

EXT.P2: TRUE COPY OF THE CHALLAN DATED 31/03/2014 PAYING ROYALTY FOR THE YEAR 2014 - 2015 IN RESPECT OF CRUSHER UNIT.

EXT.P3: TRUE COPY OF THE SCHEDULE-IV, THE CONSOLIDATED ROYALTY.

EXT.P4: TRUE COPY OF THE NOTIFICATION GO(P) NO. 01/2015/ID DATED 05/01/2015 ISSUED BY THE 1ST RESPONDENT.

EXT.P5: TRUE COPY OF THE NOTICE NO. DOQ/S2/238/2015 DATED 21/03/2015 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 - 2015.

EXT.P7: TRUE COPY OF THE OBJECTION DATED 23/03/2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

vmr

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.9457 of 2015

Dated this the 25th day of March, 2015

JUDGMENT

The petitioner is mainly aggrieved of the enhancement of the 'consolidated royalty' from 5.01.2015 by virtue of the amendment of the KMMC Rules, 2015 brought into force as per Ext.P4 (G.O.(P) NO.1/2015/ID). 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 21.03.2015 to satisfy the amount of ₹26,00,000/-, 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 ₹6.50 lakhs. The learned counsel also submits that, the petitioner is not challenging the rule and as to the liability to satisfy the due amount for the year 2015.2016 is also recorded.

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 in respect of the year 2014.2015 shall be kept in abeyance till such time, subject to satisfaction of ₹6.50 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.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE.

sp