

**HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR**

**W.P.Nos.7840 and 8047 of 2015**

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**COMMON ORDER:**

The petitioner in these two writ petitions is one and the same and he is questioning the demand notices issued by the 3<sup>rd</sup> respondent on 04-03-2015.

The aforesaid demands were raised against the petitioner on the ground that the closing stock as per monthly returns in January, 2011, the quantity disclosed is noted and based on the stocks available on ground at the mining site, it was concluded that there is a substantial variation. Hence, the royalty payable was charged at the market rate. There is also another circumstance, which has some relevance viz., the lease of the petitioner was determined by statutory orders passed under Rule 27(v) of the A.P.Minor Mineral Concession Rules, 1966. The said orders were questioned in W.P.Nos.499 of 2015, 486 and 493 of 2015. All these writ petitions were admitted on 20-01-2015 and the matters are pending herein for disposal. While so, the present demand notices were issued, after giving show-cause notices to the petitioner and after the petitioner filed his respective explanations/objections. The petitioner therefore questioned the demand notices *inter alia* on the ground that after the order of determination is passed, the demand notices in question could not have been issued on the ground of evasion of royalty.

I have heard the learned counsel for the petitioner as well as the Special Government Pleader appearing for the respondents.

Evidently, against the said demand notices, the petitioner has an efficacious alternative remedy under Rule 54 of the A.P.Minor Mineral Concession Rules, 1966. Merely because the determination of lease is questioned in these writ petitions, referred to above, I do not see any reason to entertain these writ petitions.

It is also evident from the impugned orders itself that the present demand is based upon the closing stocks as in January, 2011, whereas show-cause notice itself has been issued to the petitioner on 22-12-2014 i.e., almost after four years and the present demand notices thereafter. Irrespective of determination of lease of the

petitioner, if there was any evasion of royalty, the notice could have been issued much earlier and the fact that the notice is issued after four years based upon the stock as was existing in January, 2011 that itself would cause some prejudice to the petitioner. In view of lapse of time, all these matters, however, are required to be examined and considered by the revisional authority referred to above.

In view of the aforesaid circumstances, therefore, enforcement of the said demand, in my view, should not be permitted till the revisional authority examines the matter and takes appropriate decision on the said issue.

Hence, the writ petitions are disposed of permitting the petitioner to avail alternative remedy under Rule 54 referred to above. However, the said revision shall be filed within one month from today by approaching the Central Government under intimation to the Deputy Director of Mines and Geology, Warangal, who had issued demand notices. The petitioner complies with the said condition and files the revision accordingly, the impugned demand notices shall not be enforced against the petitioner till final disposal of such revision petition and the revisional authority shall hear and dispose of the said revision petition in accordance with law expeditiously. No order as to costs.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

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**VILAS V.AFZULPURKAR, J**

Date: 25-03-2015

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**HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR**

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