

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 94 of 2016

1. Agrawal Coal Corporation Pvt. Ltd. Indore (M P) Through Its Senior Manager Shri Pradeep Namdev, Son Of Shri D. P. Namdev, Aged About 50 Years, R/o Green Park Colony, Jarhabhata, Police Station Civil Lines, Bilaspur (Chhattisgarh).
2. Pradeep Namdev, S/o Shri D. P. Namdev, Aged About 50 Years Senior Manager, Agrawal Coal Corporation Pvt. Ltd. Indore (M P) And R/o Green Park Colony, Jarhabhata, Police Station Civil Lines, Bilaspur (Chhattisgarh). Civil & Revenue District Bilaspur (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Commercial Tax Department, Mantralaya New Raipur, P. S. Tahsil & District Raipur (Chhattisgarh).
2. South Eastern Coalfields Limited, Through Its Managing Director, S E C L Headquarters, Seepat Road, Basant Vihar, Police Station Sarkanda, Tahsil And District Bilaspur (Chhattisgarh).
3. The General Manager, Sales & Marketing Department, S E C L Headquarters, Seepat Road, Basant Vihar, Police Station Sarkanda, Tahsil And District Bilaspur (Chhattisgarh).

---- Respondent

For Petitioner	Mr. B.P. Sharma, Advocate
For Respondent /State	Mr. Shashank Thakur, Govt.Advocate
For Respondents 2 & 3	Mr. R.K. Gupta, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

25/7/2016

1. Heard.
2. The petitioners had earlier preferred WPT No.07 of 2013 for a direction to respondents 2 & 3 therein, to collect concessional rate of 2 % CST on the inter-state sales with further direction to seek refund or issue credit notice or adjust the accounts of the

petitioners in future transaction so as to recover the excess tax already charged by the SECL. The petitioners had also sought direction to the respondent/State to issue on-line "e-C" forms to them and further direction to the SECL to refund the excess amount to the tune of RS.14,70,014.38.

3. The writ petition was dismissed by the Single Bench whereafter WA No.535 of 2013 was preferred by the petitioner. The writ appeal was disposed of on 10.12.2014 by the Division Bench in the following manner :

“ Let the State authorities examine the claim for refund and act in accordance with law including any refund of the legitimate amount within a maximum period of three months from the date of receipt and production of a copy of this order.”

4. The present petition has again been preferred seeking the same relief of refund.
5. It is well settled principle of law that the rule of *res judicata* prevents the parties to a judicial determination from litigating the same question again and again even though the determination may be demonstrably wrong. The earlier proceedings have attained finality and the parties are bound by the order passed by this Court while considering the same question seeking the same relief.
6. The Supreme Court in ***Rajendra Kumar V. Kalyan (dead) by LRs., (2000) 8 SCC 99*** held that : “The doctrine of *res judicata* or constructive *res judicata* predominantly is a principle of equity,

good conscience and justice. It would neither be equitable nor fair nor in accordance with the principles of justice that the issue concluded earlier ought to be permitted to be raised later in a different proceeding.

7. In the present case, once writ has been issued by the Division Bench in writ appeal, a fresh writ petition for the same relief is not maintainable. Therefore, the writ petition is dismissed, as not maintainable.

Sd/-

Judge

(Prashant Kumar Mishra)

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