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HIGH COURT OF CHHATTISGARH, BILASPUR

Contempt Case (C) No. 280 of 2016

M/s Century Cement Prop. Century Textiles And Industries Ltd. Having Its Head Office At Industry House, 159 Churchgate Reclamation, Mumbai 40020 And Cement Manufacturing Unit At P. O. Baikunth 493116, District Raipur (Chhattisgarh) ....(Petitioner)

---- Petitioner

Versus

1. Amit Agrawal Secretary, Department Of Commerce Tax, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh
2. Smt. Kalpana Tiwari, Deputy Commissioner, Commercial Tax Division No. 2, Devendra Nagar, Raipur, Chhattisgarh
3. Rajeev Bakshi, Commercial Tax Officer, Circle 9, Division No. 2, Devendra Nagar, Raipur, Chhattisgarh.........(Contemnors)

------Respondents

For Petitioner:	Shri Ashish Shrivastava, Advocate.
For Respondents/State:	Shri Prafull N. Bharat, Additional Advocate General.

Hon'ble The Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per **Deepak Gupta, Chief Justice**

14/09/2016

1. The Petitioner, by means of this Contempt Petition, has prayed for taking action against the Respondents on the ground that the Respondents have violated the judgment of this Court (Annexure C-1) passed in W.P.(T) No.6724/2011 and other connected matters. The relevant portion of the judgment is as follows:-

> "22. Resultantly, the notification dated 31.3.2010 and the consequential notifications dated 1.7.2014 and 5.7.2014 are held to be not sustainable to the extent that they impose entry tax at 25% on limestone clinkerised and stock transferred outside the State for manufacture of cement outside such local area. The impugned notifications are therefore set aside to that limited extent.

> 23. During the pendency of the writ applications, by order dated 27.8.2014 the Petitioners were required to pay entry tax at the higher rate subject to the result of the writ petition. It is not the case of the Respondents that Clinker was sold by the Petitioners to third parties but has been stock transferred to their own cement units. The Petitioners are therefore held entitled to restitution. The 15% additional entry tax is directed to be refunded to the Petitioners within a maximum period of three months from the date of receipt and/or production of a copy of the oder failing which it shall carry interest at the bank rate till date of payment."

2. The State has filed S.L.P before the Apex Court. This S.L.P was dismissed with the following observation:-

> "We are not inclined to entertain these petitions. They are accordingly dismissed.
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> However, we make it clear that in view of the order passed by the High Court ion 27th August, 2014, the respondents will be refunded the additional amount only if they have not passed it on to the consumers."

3. This order was passed on 22.4.2015 and the stand of the Respondents is that they are still verifying the fact whether the Petitioner/Company has passed on the tax burden upon the consumers. The case of the Petitioner/Company as stated on affidavit is that it has not passed the burden to the consumers. This will have to be verified by the State by inspecting the records of the Company and the said verification should be completed within a period of six weeks from today. Thereafter, in case the Respondents find that the Petitioner is entitled for any refund of the amount, the same shall be released to the Petitioner within a further period of 6 weeks thereafter.

4. The Contempt Petition is disposed of in the aforesaid terms.

Sd/-	Sd/-
(Deepak Gupta)	(P. Sam Koshy)
CHIEF JUSTICE	**JUDGE**

Priya