

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-02-2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

W.P.No.13548 of 2004

Tan India Mines & Minerals Limited,
335, Salem Main Road,
Komarapalayam 638 183
Salem District Petitioner

vs

The Commercial Tax Officer,
Sankari ... Respondent

Writ Petition is filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari to call for the records on the file of the respondent in TNGST.3221211/97-98 dated 31.03.2004 and quash the same.

For petitioner : Mr.N. Inbarajan

For respondent : Mr.S. Kanmani Annamalai
AGP (T)

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorari to call for the records on the file of the respondent in TNGST.3221211/97-98 dated 31.03.2004 and quash the same.

2. The only contention raised by the writ petitioner is that inspite of the Appellate Assistant Commissioner (CT), Erode allowing the Appeal in A.P.No.88/2002 dated 6.8.2002, with regard to the penalty, imposed on the petitioner, the respondent had passed the impugned order on 31.3.2004, imposing penalty of Rs.2,57,439/-. Even in the counter, filed by the respondent, the respondent had stated that the Appellate Assistant Commissioner (CT), Erode had allowed the appeal relating to levy of penalty in A.P.No.88/2002. Since the levy of penalty has already been set aside by the Appellate Assistant Commissioner (CT),

Erode, the respondent cannot impose levy penalty on the petitioner once again.

3. Mr.N. Inbarajan, learned counsel appearing for the petitioner also submitted that the present writ petition has been filed only with regard to the levy of penalty by the respondent.

4. In these circumstances, I am of the considered view that the impugned order, passed by the respondent, levying penalty, is liable to be set aside and accordingly, the same is set aside.

5. With the above observation, the writ petition is allowed. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

sr

To

The Commercial Tax Officer,
Sankari

1 cc to Spl.G.P, (T), Sr. 9032

1 cc to Mr.N. Inbarajan, Advocate, Sr. 8597

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KJI (CO)
kk 23/2

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