NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 06 of 2017

M/s Godawari Power and Ispat Ltd. A Company Incorporated Under The Companies Act, 1956 Having Its Registered Office At Plot No. 428/2, Phase I, Industrial Area, Siltara- 493111, Raipur, (Chhattisgarh), Through Its Authorized Signatory, Shri N. U. Bhaskar, S/o Late Shri N. Gowresikra, Aged About 56 Years, R/o Quarter No. C- 45, Ekta Nagar, Sector I, Gudiyari, Raipur, (Chhattisgarh).

---- Petitioner

Versus

1. State of Chhattisgarh Through Secretary, Department Of Commercial Taxes, Mahanadi Bhavan, Naya Raipur, Raipur, (Chhattisgarh)
2. Commissioner of Commercial Tax, Vanijyik Kar Bhawan, Civil Lines, Raipur, (Chhattisgarh)
3. South Eastern Coalfields Ltd. (S E C L), Seepat Road, Bilaspur- 495006, (Chhattisgarh).

---- Respondents

For Petitioner	:	Smt. Smiti Sharma, Advocate.
For Respondent/State	:	Shri D. Minj, Dy. Govt. Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

10/07/2017

1. The instant writ petition has been preferred by the petitioner seeking for a direction to the respondents to consider the case of the petitioner for refund of the VAT amount collected from the petitioner-company by the management of SECL for the period 2010-11 and 2011-12.
2. According to counsel for the petitioner, the petitioner-company during

the said period had purchased coal from the SECL and while making the payment, the petitioner had also paid VAT on the said purchase. The said tax amount collected from the petitioner-company falls within the category of exemption clause vide notification No.96. According to petitioner, the VAT collected also amounts to tax and therefore the petitioner is entitled for exemption under the said notification No.96. The amount of VAT which has been paid to the SECL in the process of purchasing coal has been further paid by the management of SECL to the State Govt. as is reflected from Annexure P/8, dated 27/28.10.2015 issued by the Finance Department of the said SECL management. According to petitioner, it is this amount which they are seeking for refund of.

3. The State counsel at this juncture enters appearance, filed its reply and submitted that the assessment proceeding are under process so far as management of SECL is concerned and the moment the assessment proceeding is complete, steps for refund of the money, if any, to the petitioner shall be made.

4. Though the reply of State is silent so far as assessment year 2010-11 is concerned, we presume it that as per contention of the State Govt. the assessment for the said period is also in progress.

5. In view of the aforesaid submissions made by the State counsel and also going through annexure R/1 which is a notice issued by the assessing authority to SECL management, this court is of the opinion that ends of justice would meet if the respondent/State is directed to conclude the proceeding at the earliest and decide the claim raised

by the petitioner for refund of the VAT amount which has been collected by the SECL and has been deposited with the State Govt., which, according to the petitioner, she is entitled for refund by virtue of it being exempted category.

6. It is ordered accordingly. Let this exercise be done within a period of two months from the next date of hearing that have been fixed by the assessing officer i.e. from 27.07.2017.
7. With the aforesaid observations, the writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

inder