

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 173 of 2016

- M/s Coal Chem, Having Its Registered Office/ Factory At 101, Light Industrial Area, P.O. Industrial Estate, Bhiali (C.G.) Through Its Proprietor D.M. Porwal, Aged About 57 Years, Occupation- Business, R/o 2/11, Motilal Nehru Nagar (East) Bhilai

---- Petitioner

Versus

1. Union Of India Through Finance, North Block, New Delhi
2. Steel Authority Of India Bhilai Steel Plant, Bhilai, First Floor, Ispat Bhawan, Bhilai, C.G. Through Its Managing Director
3. General Manager (Finance), Steel Authority Of India, Bhilai Steel Plant, Bhilai, First Floor, Ispat Bhawan, Bhilai, District Durg, M.P. Now Chhattisgarh

---- Respondents

And

REVP No. 174 of 2016

1. M/s Utkal Hydrocarbons Having Its Registered Office At 12/1-A, Ganguli Lane, Calcutta-7 Or Factory 16, Light Industrial Area, P.O. Industrial Estate, Bhiali (C.G.) Through Its Partner Pankaj Porwal, Aged About 26 Years, Occupation Business, R/o 2/11, Motilal Nehru Nagar (East) Bhilai
2. Smt. Shobha Porwal, Aged About 47 Years, Occupation- Business, R/o 2/11, Motilal Nehru Nagar (East), Bhiali

---- Petitioners

Versus

1. Union Of India Through Finance, North Block, New Delhi
2. Steel Authority Of India Bhilai Steel Plant, Bhilai, First Floor, Ispat Bhawan, Bhilai, C.G. Through Its Managing Director
3. General Manager (Finance), Steel Authority Of India Bhilai Steel Plant, Bhilai, First Floor, Ispat Bhawan, Bhilai, District Durg, M.P. Now Chhattisgarh

**Application for review of the order dated 10.11.2016 passed
in WP Nos.6074 & 6075 of 2000**

By circulation in chamber

Hon'ble Shri Justice Prashant Kumar Mishra

27/01/2017

1. The matter is taken up for consideration in the chamber under provisions of sub-rule (2) of Rule 90 under Chapter VI of the High Court of Chhattisgarh Rules, 2007.
2. The review petitioners seek review of the order dated 10.11.2016 passed by this Court in WP Nos.6074 & 6075 of 2000 on the ground that the levy and collection of Excise Duty by the SAIL/BSP on the by-products is absolutely arbitrary ,illegal and without any authority of law, therefore, the Central Excise Department fairly refunded the amount of Excise Duty recovered in turn from the BSP back to BSP on 05.08.1987 for the reason that the Central Excise Duty was not payable on the by-products for the year 1978-1985. The petitioners also urge that the petitioners in M. P. No.1911/1999 (MP Tar Products and others vs. Union of India) had also approached for the refund of the amount and were also awarded interest at the rate of 9% per annum from 12.11.1988 i.e. from the date when the petitioners were entitled for the said refund.
3. This Court passed the order on 10.11.2016 after appreciating all the facts and circumstances of the case in

its true perspective. Moreover the M. P. High Court passed the order in M. P. Tar Product (supra) in a writ petition which was preferred in the year 1991, whereas the present writ petitions were submitted in the year 2000 after a delay of about 9 years, therefore, while passing the order, this Court consciously limited the claim for interest from 05.10.2000 and not from 05.08.1987.

4. On consideration of the grounds raised in the review petition, which are in the nature of taking liberty to re-argue the writ petition are unsustainable in the eyes of law.
5. There is no other ground pointed out by the petitioner showing any manifest error on the record and has not further brought into the notice, any new facts, which could not be produced earlier despite diligent efforts made by the petitioner. It is well settled principles of law that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of the Code of Civil Procedure. Even in exercise of review jurisdiction by the High Court under Article 226 of the Constitution, the petitioner has not produced any ground for review.
6. It appears that the petitioners by presentation of these review petitions seek an opportunity to argue the entire case for award of interest afresh on merits under the garb of the review petitions, which is not permissible and tenable in law.

7. It is well settled principle of law that under the garb of review petition, the petitioner should not be permitted to argue the entire case afresh, which would amount to convert the review petition into an appeal and the same is not sustainable in law. (See : **Meera Bhanjan v. Smt. Nirmal Kumar Cohwdhary¹**, **Lily Thomas etc. v. Union of India and others²**, **Ajit Kumar Rath v. State of Orissa and others³**, **Government of T.N. & Others v. M. Ananchu Asari and others⁴**, and **Kerla State Electricity Board v. Hitech Electrothermicism & Hydropower Ltd. and others⁵**).
8. In view of foregoing, both the review petitions, being bereft of merit, are liable to be and are hereby dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Gowri

1 AIR1995 SC 455
2 AIR 2000 SC 1650
3 AIR 2000 SC 85
4 (2005) 2 SCC 332
5 (2005) 6 SCC 651