IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

The Hon'ble Sri Justice V.RAMASUBRAMANIAN
and
The Hon'ble Mrs. Justice T. RAJANI

<u>Writ Petition No.30039 of 2017</u>

Between:

M/s. Asian Natural Resources (India) Ltd.,
(formerly known as M/s. Bhatia International Ltd.)
Represented by its Authorised Signatory Biju EJ
Registered Office: 102, Sundaram Complex, 3
Gurmeet Nagar, Indore – 452001,

… Petitioner

Vs.

1. The State of Andhra Pradesh, represented by its Principal Secretary, Revenue (CT-II), Department, A.P. Secretariat Buildings, Velagapudi, Amaravathi, Guntur District – A.P.

2. Appellate Deputy Commissioner (CT), Plot No.21, Veterinary Colony, Adarshnagar, Visakhapatnam.

3. The Commercial Tax Officer, Kurupam Market Circle, Visakhapatnam.

…. Respondents

For Petitioner : Mr. P. Girish Kumar

For Respondents : Mr. Shaik Jeelani Basha
Standing counsel for the Department

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MRS. JUSTICE T. RAJANI

Writ Petition No.30039 of 2017

ORDER: *(V. Ramasubramanian, J)*

The petitioner, who is a dealer under the Andhra Pradesh Value Added Tax Act, 2005 has come up with the above writ petition seeking a very innocuous prayer. The prayer in the writ petition is either for setting aside the order of assessment dated 23-07-2015 or for allowing the petitioner to correct the mistakes that crept in the figures pertaining to the disputed turn over and disputed tax.

2. Heard Mr. P. Girish Kumar, learned counsel for the petitioner and Mr. Shaik Jeelani Basha, learned special standing counsel for the respondents.

3. An order of assessment was passed on 23-07-2015. As against the same, the petitioner filed an appeal on 10-09-2015. On the ground that the petitioner did not comply with pre-deposit condition, the Appellate Deputy Commissioner made an endorsement on 17-11-2015.

4. Nearly after two years thereafter, the petitioner has come up with the above writ petition. The amendment that the petitioner seeks to make is both to the disputed turn over and to the tax on the disputed turn over. The petitioner wants the disputed turn over mentioned by him in the form of appeal as Rs.2,29,43,843/- corrected as Rs.12,89,02,368/-. Similarly, the petitioner wants the

tax on the disputed turn over, mentioned as Rs.9,17,754/- corrected as Rs.4,17,142/-.

5. The object of seeking such amendment is too obvious. Once the tax implication comes down, the non-payment of pre-deposit condition way back on 10-09-2015 could stand corrected by the petitioner.

6. But it is to be pointed out that by the endorsement dated 17-11-2015, the appeal of the petitioner stood rejected for non-payment of pre-deposit condition. Though the learned counsel contended that the endorsement contains a mere threat to reject the appeal, we do not think that the said contention is correct. There is no appeal in the eye of law, if a pre-deposit condition is not satisfied.

7. Today, the petitioner cannot challenge the original assessment order after 2 years, especially after filing an appeal and not making a pre-deposit. The petitioner cannot seek an amendment of the appeal, since there is no appeal in the eye of law.

Hence, the writ petition is dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

T. RAJANI, J

Date: 06-09-2017

Ksn