IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18400 of 2015

==

M/s C T S Industries Ltd. having its registered Head Office at Kolkata and Area Office at Kanpur through its Director Purushottam Tulsyan son of Shri Sita Ram Tulsyan, resident of M-64, Great Kailash, Part-II, New Delhi.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Mines and Geology New Secretariate, Bihar, Patna.
2. Commissioner of Mines, Department of Mines, Bihar, Patna.
3. Collector- cum-District Magistrate, Gaya.
4. Assistant Director, Mines and Geology, District- Gaya.

.... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. Niraj Kumar Sinha, Advocate

For the Mining Dept. : Mr. Naresh Dixit, Advocate

==

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 24-08-2018

Heard learned counsel for the petitioner and learned Spl PP for the Mines Department.

2. The petitioner has challenged the order of the revisional authority dated 25.05.2015 whereby his claim for remission in respect of liscence fee for the period of 17.02.011 to 16.02.2012 has been rejected.

3. The said remission was claimed on the ground that the petitioner was obstructed in carrying activity in the said period under the orders of the authorities which was clearly illegal. He has challenged the order by making two submissions. One that the report

which has been relied upon to reject the petitioner's claim to the extent that the activity was being carried on by the petitioner during the period 17.02.2011 to 16.02.2012, is a report much earlier in time and in relation to inspection conducted in January, 2011. The other submission which the learned counsel has advanced relying upon the decision of the Hon'ble Apex Court in the case of **Secretary Department of Excise & Commercial taxes vs. Sun Bright Marketing (P) Ltd.,** reported **2004(3) SCC 1850** is that merely because the Rule is silent on the point of remission, the same cannot be denied.

4. The submissions of the counsel for the petitioner have been contested by the Spl. PP for the Mines Department. Referring to the statements made in the counter affidavit and referring to the various returns submitted by the petitioner for the disputed period, it is stated that the specific case in the counter affidavit is that during the said period activity was being carried on by the petitioner. In paragraph 16 of the counter affidavit specific averments have been made that the activity was being carried on by the petitioner illegally within the period for which remission is being claimed on ground of alleged obstruction/discontinuation of his mining activities.

5. No rejoinder has been filed disputing the assertions made in the counter affidavit.

6. Considering the aforesaid situation, this Court does not find any reason to interfere with the order passed by the revisional authority.

7. Writ petition is dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	