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

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

W.P.No.16995 of 2018

Date: 02-05-2018

Between:

M/s. Tab India Granites Pvt. Ltd., N.H.7,
Nallaganakothapally village, Krishnagiri Road,
Koneripalli P.O., Hosur Taluk, Tamil Nadu,
Represented by its Authorised Signatory
B. Senthil

… Petitioner

And

The Union of India, Ministry of Finance,
Department of Revenue, North Block,
New Delhi, represented by its Deputy Secretary
and 2 others

… Respondents

Counsel for the Petitioner	:	Mr. Harish Kumar Rasineni
Counsel for Respondents	:	Mr. B. Narasimha Sarma, Senior standing counsel Mr. K. Laxman, Asst. Solicitor General

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.16995 of 2018

ORDER: *(per V. Ramasubramanian,J)*

Challenging a demand for payment of service tax on the royalty charges paid by the petitioner to the State Government, in respect of the mining leases taken by them, the petitioner has come up with the above writ petition.

2. Heard Mr. Harish Kumar Rasineni, learned counsel for the petitioner and Mr. B. Narasimha Sarma, learned senior standing counsel appearing for the respondents 2 and 3.

3. The issue raised in this writ petition is covered by a judgment of another Bench of this Court dated 04-01-2018 in W.P.Nos.44679 of 2017 and Batch. The last two paragraphs of the said order, if reproduced, will make things clear. Hence, they are reproduced as follows:

> "Mr. S. Ravi, learned Senior Counsel appearing for Mr.N.Vijay, learned Counsel for the petitioners, has tried to persuade us to admit the Writ Petition and adjudicate the same on merits. However, we do not feel persuaded to accept this request in view of the stand taken by the respondents that they will not enforce the impugned orders and instead, they will pass the assessment orders after considering the detailed objections that may be filed by the petitioners against the proposed levy of service tax.
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> Accordingly, without expressing any opinion on the Notification, dated 20-06-2012, issued by the Government of India based on which the respondents are seeking to fasten the liability of payment of service tax on them, the Writ Petitions are disposed of, by permitting the petitioners to file their detailed objections against the proposed levy within two weeks from the date of receipt of this order. On receipt of such objections, respondent No.3

shall give an opportunity of personal hearing to the petitioners and thereafter, take appropriate decision. In the event, respondent No.3 proposes to pass the assessment orders, he shall call for the details from the petitioners, pass the assessment orders and communicate the same to them. For a period of three weeks from the date of service of the assessment orders, respondent No.3 shall not take coercive steps. It is needless to observe that if the petitioners feel aggrieved by the assessment orders that may be passed by respondent No.3, they shall be free to avail appropriate remedies in accordance with law."

4. In the light of the limited nature of disposal that this Court has made in the aforesaid case, which squarely applies to the facts of this case, the writ petition is also disposed of, permitting the petitioner to file its detailed objections against the proposed levy within two (2) weeks from the date of receipt of a copy of this order. Upon receipt of such objections, the concerned Officer shall give an opportunity of personal hearing and pass appropriate orders. For a period of three (3) weeks from the date of service of the assessment orders, the assessment order shall not be enforced through coercive steps, to enable the petitioners to workout its alternative remedies.

5. The writ petition is disposed of accordingly. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 02-05-2018

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