NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No.10 of 2007

South Eastern Coal Fields Limited, A Govt. Company having its headquarter at Seepat Road, Bilaspur (CG) Through the Chief General Manager, SECL Kusmunda Area, District Korba (CG) **---- Petitioner**

Versus

1. State Of Chhattisgarh, Through the Secretary, Urban Administration, Government of Chhattisgarh, DKS Bhawan, Raipur (CG)

2. The Municipal Corporation, Through the Commissioner, Municipal Corporation, Korba, District Korba (CG) **--- Respondents**

For Petitioner	:	Mr. Shailendra Shukla, Advocate
For State/Respondent No.1	:	Mr. Anmol Sharma, Panel Lawyer
For Respondent No.2	:	Mr. Aditya Bharadwaj, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

17/10/2019

Heard.

1. By this petition, under Article 226 of the Constitution of India, the petitioner has assailed legality and validity of notification/resolution dated 30.03.2005, by which, the rates of property tax were enhanced by respondent/Corporation.

2. At the outset, learned counsel for the parties jointly submit that the validity of the aforesaid notification/resolution has already been upheld by this Court in another writ petition filed by the petitioner in WP No.2236 of 2005 decided on 05.08.2005, a copy of which has been placed on record Annexure R-2/J.

3. At this stage, learned counsel for the petitioner submits that even if the notification/resolution enhancing rates of property tax is upheld, the petitioner had raised other grievance vide his representation dated 15.04.2006 (Annexure P/4). He submits that on that representation, when the matter was under enquiry before the Commissioner, the petitioner deposited the entire

amount of tax as demanded by the Corporation. Therefore, the petitioner may be permitted to prosecute his remedy to that extent only, without levying any challenge to resolution/notification dated 30.03.2005.

4. Learned counsel for the Corporation referring to averment made in the return submits that though the petitioner had submitted representation, he was given repeated opportunity to substantiate his claim but instead of leading any cogent material to substantiate his claim, the petitioner deposited the balance amount as demanded by the Corporation and thereafter, filed his writ petition challenging the validity of notification/resolution dated 30.03.2005.

5. Learned State counsel would submit that the dispute is between the petitioner and the respondent Corporation.

6. Having considered the submission of learned counsel for the parties, this Court finds that as far as challenge to the validity of notification/resolution dated 30.03.2005 is concerned, that issue has already been set at rest by order dated 05.08.2005 passed by this Court in WP No.2236 of 2005, the petition filed by the petitioner herein against the Corporation. Learned counsel for the parties are not in a position to dispute on legal position. Therefore, challenge to legality of notification/resolution dated 30.03.2005 would also meet the same fate in this petition also.

7. However, I find that the petitioner had raised objection on other aspects in respect of which, as return of Corporation shows, the petitioner was required to substantiate by filing material/document in support thereof. However, the petitioner did not submit any material and in the meantime, deposited the entire amount which according to learned counsel for the petitioner, was under protest.

8. Be that as it may, as the petitioner's representation filed on 15.04.2006 still remains undecided, obviously as the matter was taken to this Court and had remained pending in the matter of challenge to resolution/notification dated 30.03.2005, let the petitioner's representation be now decided by the Corporation on its own merits. It is made clear that this liberty is being given to the petitioner only in respect of other aspects of assessment without liberty to challenge enhancement of rates of property tax as per the notification/resolution dated 30.03.2005 because that aspect has already been decided by this Court.

9. In the interest of justice, the respondent/Corporation shall give one opportunity of not less than four weeks to the petitioner to file material to substantiate his claim. Thereafter, within a period of two months, the claim of the petitioner shall be decided one way or the other.

10. I must hasten to add that I have not commented upon the merits of the petitioner's claim and it would be open for the Corporation to take appropriate decision in accordance with law.

11. Accordingly, the writ petition is disposed off.

Sd/-

(Manindra Mohan Shrivastava)

Judge

Rekha