NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition No. 144 of 2000

1. M/s Hindalco Industries Limited, Through Ramjilal Modi, S/o Radheyshyam Modi, Age 45 Years, Additional General Manager (Finance and Accounts), P.O. Renukoot- 231.217, District Sonbhadra (U.P.)

2. Kailash Narain Srivastava, S/o Late Jagat Narain Srivastava, aged about 75 years, R/o Administrative Colony, P.O. Renukoot- 231.217, District Sonbhadra (U.P.)

---- Petitioners

Versus

1. Janpad Panchayat, Through The Chief Executive Officer, Kusmi, District Surguja (M.P.)

2. Collector, Ambikapur, District Sarguja (M.P.)

3. State of Madhya Pradesh, Through The Chief Secretary, Vallabh Bhawan, Bhopal- 462004

---- Respondents

For Petitioners	:	Shri B.D. Guru, Advocate.
For Respondents/State	:	Shri Siddharth Dubey, Deputy Government Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Order on Board

Per P. R. Ramachandra Menon, Chief Justice

22.07.2019

1. If the mining royalty would constitute taxes on the mineral rights is the point of dispute. The Petitioner company who is enjoying the some mining rights over the property in question involving mining and transport of Bauxite has approached this Court with the following prayers:

> “(1) to hold that no tax on bauxite, a scheduled/mineral, can be levied in the same of 'Parivan Kar' on the trucks carrying bauxite from bauxite mines situated in Tehsil Kusmi, District Sarguja, to Hindalco Industries Limited, the petitioner No.1,
>
> (2) to quash the resolution dated 11.02.99 (Ann. P-1) and the order dated 12.02.99 (Ann. P-2),
>
> (3) to issue such order or direction to refund the tax already collected from the petitioner No.1 upto 30.11.99 which comes to Rs. 3,80,000/-, and
>
> (4) to issue such other writ or direction or order which this Hon'ble Court deems fit in the circumstances of the case to give relief to the petitioners.”

2. Heard Shri B.D. Guru, the learned counsel appearing for the Petitioners as well as Shri Siddharth Dubey, the learned counsel representing the State.

3. The main ground of challenge is that no tax can be imposed by the Janpad Panchayat under Section 77(2) of the M.P. Panchayat Raj Adhiniyam, 1993, read with Schedule II, Part 'B' of the Adhiniyam.

4. It is brought to the notice of this Court that exactly a similar issue is pending consideration before the Apex Court by way of Civil Appeal bearing No. 1883 of 2006. It is also brought to the notice of this Court that similar issues are pending consideration elsewhere and in the said circumstances, a transfer petition bearing No. TP(C) No. 000906/2007 was filed before the Apex Court on 27.11.2007 seeking this matter also to be called for and posted alongwith the civil appeal under consideration before the Apex Court. It is pointed out that no order has been passed thereon, but for the order dated 28.11.2007 causing the transfer petition to be tagged alongwith the civil appeal. It is in the said circumstances that the above matter was being adjourned by this Court from time to time, awaiting the declaration of law by the Apex Court.

5. In view of the nature of challenge involved and the reliefs sought for, there cannot be any doubt that the issue would become final, on the declaration of

law by the Supreme Court where the issue is pending consideration. This being the position, this Court is of the view that this matter need not to be kept pending in this Court anymore. More so, when this writ petition is aged more than the age of the State.

6. We find it appropriate to close the writ petition making it clear that the issue projected herein and the reliefs sought for by the Petitioners will depend on the outcome of the civil / appeals mentioned above which are pending before the Supreme Court. Hence, we close the matter accordingly, reserving the rights and liberties of parties on both the sides, to act accordingly, based on the law to be declared by the Supreme Court. It is open for either of the parties to move this Court, should any occasion arise, warranting interference in the due course, by filing appropriate proceedings in accordance with law.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Brijmohan