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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (T) NO. 140 OF 2018

Bhilai Jaypee Cement Limited, a Company registered under the Companies Act, 1956, having its manufacturing unit at Bhilai Steel Plant Premises, Opp. Sector-4, Slag Road (near MOH), Bhilai, District Durg (CG). Registered Office at Post Babupur, Satna (MP) and Head Office at 'JA House' 63, Basant Lok, Vasant Vihar, New Delhi, 110057, through its Authorized Signatory Shri Niraj Kumar Shrivastava.

… Petitioner

versus

1. Municipal Corporation, Bhilai, through its Commissioner, Bhilai, District Durg (CG)
2. Property Tax Office, Municipal Corporation, Bhilai, District Durg (CG)

… Respondents

For Petitioner	:	Mr. Ashish Shrivastava, Advocate.
For Respondents	:	Mrs. Fouzia Mirza, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13/11/2019

1. Challenge in the present writ petition is to the order dated 12.6.2018 (Annexure P-1) as well as to the demand notice dated 25.6.2018 (Annexure P-2)

2. At the outset, this Court is of the opinion that the petitioner has an alternative statutory remedy available under the provisions of the Chhattisgarh Municipal Corporation Act, 1956 (hereinafter referred to as, “the Act of 1956”).

3. Perusal of the records would show that the petitioner establishment itself on an earlier occasion had filed a writ petition i.e. WPT No. 277/2017 and where the limited grievance that the petitioner had raised was that though the petitioner has preferred an objection before the Commissioner, Municipal Corporation, Bhilai in respect of assessing of property tax, treating the petitioner company to be located in a commercial zone and not in an industrial zone being pending, the respondents are insisting for payment of property tax as applicable in commercial zone. The said writ petition got disposed of on 9.4.2018 directing the Commissioner, Municipal Corporation, Bhilai to consider and decide the petitioner's objection within a period of six weeks from the date of receipt of certified copy of the order. Pursuant to the direction given by this Court in the aforesaid writ petition, the respondents have now passed the impugned orders i.e. Annexure P-1 and Annexure P-2.

4. Perusal of the records also would show that the objection that the petitioner has raised was in fact one under Section 173(2)(a)(ii) read with Sections 147 and 148 of the Act of 1956. It is relevant at this juncture to reproduce Sections 149(1) and 149(2) of the Act of 1956, which follow as under :

> **"149. Appeals to District Courts.–**(1) If any dispute arises as to the liability of any land or building to assessment or as to the basis or principle of assessment or as to the amount of tax assessed, an appeal shall lie from the decision of the Municipal Commissioner to the District Court, whose decision shall be final.
>
> (2) Such appeal shall be presented to the District Court within thirty days from the date of the order passed under Section 148 and shall be accompanied by an extract from the register of objections containing the order objected to.**"**

5. From the plain reading of the aforesaid provisions, it is evidently clear that the statute itself provides for remedy of appeal against the decision of the Commissioner on an objection under Section 173 read with Sections 147 and 148 of the Act of 1956.

6. Contention of the counsel for the petitioner that since the ground raised by the petitioner in the present writ petition is a legal ground, inasmuch as the mode of assessment or as the basis of assessment applied on the petitioner is incorrect as the respondents have been assessing similarly placed establishments in the same vicinity on a different base is not sustainable for the reason that Section 149(1) would clearly includes the ground of the basis or the principle of assessment for challenging an order of the Commissioner.

7. Given the said fact that the petitioner has an alternative statutory remedy available, the present writ petition in its present from would not be maintainable.

8. Reserving the right of the petitioner to approach the concerned District Court, the present writ petition is disposed of. Petitioner is directed to approach the concerned District Court within a period of fifteen days from today.

9. Till the petitioner prefers an appeal under Section 149 of the Act of 1956 before the concerned District Judge along with an application for interim relief that too if it is filed within a period of fifteen days, it is directed that the respondents should not take any coercive step pursuant to the impugned order dated 12.6.2018 (Annexure P-1) and demand notice dated 25.6.2018 (Annexure P-2).

10. The appeal would be considered and decided by the District Judge on its own merits ignoring the aspect of limitation, for the reason that the petitioner had preferred the present writ petition within thirty days from the date the Commissioner had passed the order dated 12.6.2018 and therefore the petitioner has an advantage under Section 14 of the Limitation Act.

11. With the aforesaid direction/observation, the writ petition stands finally disposed of.

Sd/-
(P. Sam Koshy)
JUDGE

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