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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 827 of 2018

{Arising out of order dated 13.12.2017 passed in Writ Petition (T) No. 351 of 2017 by the learned Single Judge}

1. State of Chhattisgarh Through The Secretary, Government of Chhattisgarh, Commercial Tax Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur, Chhattisgarh.
2. Commissioner Commercial Tax, Chhattisgarh, Raipur, Chhattisgarh.
3. Additional Commissioner Commercial Tax, Raipur, Chhattisgarh.
4. Divisional Deputy Commissioner of Commercial Tax Raipur, Chhattisgarh.

---- Appellants

Versus

M/s Ultra Tech Cement Ltd. A Company Incorporated Under The Companies Act, 1956, Having Its Registered Office And Office At Ravinagar Raipur 492001 Chhattisgarh, Through Its Authorized Signatory Of The Company Shri S.S.K.V.D. Prasada Rao S/o Shri Satzoda Surya Rao, Aged About 56 Years, R/o Hirmi Cement Works (Township) Hirmi, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

For Appellants/State : Shri R.S.Baghel, Deputy Advocate General.
For Respondent : Ms. Smiti Sharma, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per Ajay Kumar Tripathi, Chief Justice

22/01/2019

1. Heard learned counsel for the parties.

2. The issue raised in the present appeal while assailing the decision of the learned Single Judge dated 13.12.2017 has already been considered in detail in a batch of writ appeals, the lead case being Writ Appeal No. 697 of

2018 {*State of Chhattisgarh & Others v. Ultra Tech Cement Ltd.*} and other analogous cases, decided on 26.11.2018

3. The rationale and reasoning provided therein in quite a detail are also applicable to the present appeal because the learned Single Judge had passed a well considered order in Writ Petition (T) No. 118 of 2015 and other analogous cases on 09.08.2017. That judgment or order of the learned Single Judge was upheld by the Division Bench on 26.11.2018.

4. The present appeal challenges the order in question which has been passed on the basis of the judgment and decision dated 09.08.2017 passed in the batch of writ applications, the lead case being Writ Petition (T) No. 118 of 2015.

5. Though, the learned Deputy Advocate General tries to make a distinction but it is far fetched keeping in view the issue which came to be answered against the efforts of the State authorities, especially the Commercial Tax Department to open assessments without the foundation and material fact in relation to the 'reason to believe' being available.

6. The reasoning provided by the Division Bench in Writ Appeal No. 697 of 2018 covers the present appeal.

7. The appeal has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE

Amit