IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(T) No. 4264 of 2015

Bharat Coking Coal Limited, a Company incorporated under the Companies Act, having its registered Office at Koyla Bhawan, Koyla Nagar, P.O. BCCL Township, District – Dhanbad-826005, Jharkhand, through its Head of Departmental (Legal) Dr. Harendra Kishore, son of Late Dhar Sharma, residing at P.O.-Kusum Vihar, Koyala Nagar, P.O. & P.S. – Koyala Nagar, Dhanbad (Jharkhand). **… … Petitioner**

Versus

1. Union of India through Department of Central Excise and Service Tax, New Delhi, P.O. & P.S. – New Delhi, District – New Delhi.
2. Commissioner, Central Excise and Service Tax, Central Revenue Building, 5A Main Road, P.O. Ranchi, P.S. – Chutia, District – Ranchi (Jharkhand).
3. Assistant Commissioner, Central Excise and Service Tax, Dhanbad Division-1 HE School Road, Vistipara, P.O. & P.S. – Dhanbad, District – Dhanbad (Jharkhand).
4. Superintendent, Central Excise and Service Tax, Range-II, HE School Road, Vistipara, P.O. & P.S. – Dhanbad, District – Dhanbad (Jharkhand).
5. Superintendent, Central Excise and Service Tax, Range-III, HE School Road, Vistipara, P.O. & P.S. – Dhanbad, District – Dhanbad (Jharkhand).

… … Respondents

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioner : Mr. Amit Kumar Das, Advocate
For the respondent : Mr. Ratnesh Kumar, Advocate

Order No. 06 : Dated 11th February, 2020

The instant writ petition is under Article 226 of the Constitution of India filed for quashing of letter dated 09/10.02.2015 passed by Assistant Commissioner, Central Excise and Service Tax Division, Dhanbad-I as also for quashing of letters dated 07.08.2014 issued by Superintendent, Central Excise, Range-II, Dhanbad and 04.02.2015 issued by Superintendent, Central Excise, Range-III, Dhanbad whereby and whereunder direction has been given to the writ petitioner to pay the amount of outstanding interest within seven days of the receipt of the letter failing which action will be initiated under Section 11 of the Central Excise Act, 1944 and Section 87 of Chapter V of the Finance Act, 1994.

2. Mr. Ratnesh Kumar, learned counsel appearing for the respondents has submitted that the matter pertains to making payment of interest on account of delayed payment of Clean Energy Cess, non-payment of duty and Service Tax, however, on demand the duty and Service Tax have been paid but after delay and therefore the interest has accrued which is required to be paid by the assessee and hence direction has been issued by way of communications dated 09/10.02.2015, 07.08.2014 and 04.02.2015 which suffer from no infirmity as because Clean Energy Cess, duty and Service Tax have been paid after delay, therefore, the interest is required to be paid on delayed payment of aforesaid duty/cess as per the statutory provision.

3. Upon such submission, Mr. Amit Kumar Das, learned counsel appearing for the petitioner has submitted that so far as interest upon delayed payment of Clean Energy Cess, duty and Service Tax is concerned, the same shall be paid by the petitioner subject to a right to challenge the same.

4. This Court, after having heard the learned counsel for the parties and on appreciation of the rival submissions as also from the material available on record, has found that the communications have been issued by the authorities on 09/10.02.2015, 07.08.2014 and 04.02.2015 pertaining to demand on account of delayed/non-payment of Clean Energy Cess, duty and Service Tax.

So far as Clean Energy Cess, duty and Service Tax is concerned, it is admitted case of the writ petitioner that the Clean Energy Cess, duty and Service Tax were not paid in time, however, on demand the same was paid. Therefore, this Court is of the view that the interest is required to be paid by the writ petitioner.

5. In view thereof, the writ petitioner is directed to make payment of interest over Clean Energy Cess, duty and Service Tax within a period of eight weeks from the date of receipt of copy of this order.

However, it will be open to the writ petitioner to assail such payment before the appropriate forum and any payment made shall be dependent upon the outcome of such adjudication, if agitated by the writ petitioner.

6. With these observations, this writ petition stands disposed of.

(Dr. Ravi Ranjan, C.J.)

(Sujit Narayan Prasad, J.)

Birendra/
N.A.F.R.