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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (T) No. 51 of 2020

M/s J K Lakshmi Cement Ltd. Through The Sr. Vice President, Village Malpurikhurd, Khasadih, Post Ahirara, Tahsil Dhamdha, Durg Chhattisgarh.

---Petitioner(s)

Versus

1. Union of India Through The Secretary, Ministry of Finance, Income Tax Department (Department of Revenue), North Block, Secretariat Building, New Delhi.
2. Dy. Commissioner of Income-Tax (TDS) Income- Tax Department, Office of the Income Tax Officer, TDS, ACIT/DCIT (TDS), Raipur Chhattisgarh.
3. State of Chhattisgarh Through The Secretary, Department of Mineral Resources, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur Chhattisgarh.
4. District Mining Officer Mining Office, Collectorate Campus, Durg Chhattisgarh.

---Respondents

For Petitioner	:	Shri N. Naha Roy, Advocate.
For State	:	Ms. Abhyunnati Singh, Panel Lawyer.
For Income Tax Department		Shri Amit Choudhary and Smt. Naushina Ali, Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16.03.2020

1. Challenge in the present writ petition is to the two notices issued to the petitioner under Section 226(3) of the Income Tax Act, 1961, dated 25.02.2020 and 28.02.2020 (Annexure P/1 Collectively).

2. The notices issued seems to be in respect of an amount of Rs.56,13,054/- due from the District Mining Officer, Mining Office, Collectorate Campus, Durg for the assessment year between 2012-13 to 2016-2017 & 2019-20 to 2020-21.

3. The counsel for the petitioner referring to Annexure P/3 submits that the entire liability which the petitioner is liable to pay towards the District Mineral Foundation has been regularly paid by the petitioner and that there

is no default on their part and as such the notices which have been issued to the petitioner (Annexure P/1 Collectively) is not sustainable at all. He further submits that before issuance of such notice, the petitioner has not been given an opportunity of explaining the liability part, if any.

4. At this juncture, earned Standing Counsel appearing for the Department submits that order under challenge is only a show cause notice and in terms of Clause-vi of Section 226(3) of the Income Tax Act, the petitioner is required to submit a statement of oath and subject to petitioner's filing the statement of oath explaining the discharge of liability so far as petitioner is concerned and the payment that the petitioner have made during the intervening period for the assessment years mentioned in the show cause notice giving details of the same, the authorities concerned shall take appropriate steps in accordance with provisions of law.

5. Given the said submission made by the Standing Counsel for the Department, this court as of now is of the opinion that the writ petition can be disposed of directing the petitioner to furnish a statement of oath giving details of payment made to the District Mining Officer as far as contribution of the petitioner towards District Mineral Foundation for the period referred to in the notice supported with all relevant records in respect of the same.

6. Subject to petitioner's furnishing their statement of oath within a period of 15 days from the date of receipt of copy of this order, the respondent authorities shall, on due verification, take appropriate steps in accordance with law keeping in view the observations of the Supreme Court in case of Beharilal Ramcharan Vs. Income Tax Officer, Special Circle 'B' Ward, Kanpur, AIR 1981 SC 1585.

7. It is made clear that till the respondents take a decision on the statement of oath so submitted by the petitioner within the period specified, no further steps shall be taken upon the notice, Annexure P/1 Collectively, so far as petitioner is concerned.

8. With the aforesaid observations, the writ petition accordingly stands disposed of.

Sd/-

(P. Sam Koshy)
Judge

inder