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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1141 of 2020

M/s Godawari Power And Ispat Ltd. A Company Duly Registered Under The Companies Act 1956, Having Registered Office At Plot No. 428/2, Phase - 1, Industrial Area Siltara - 493 111, District Raipur Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Through Secretary, Ministry Of Finance, Income Tax Department (Department Of Revenue), North Block, Secretariat, New Delhi
2. Deputy Commissioner Of Income Tax (Tds), Income Tax Department, Office Of The Income Tax Officer, Raipur, Chhattisgarh
3. State Of Chhattisgarh Through The Secretary, Department Of Mineral Resources, Mantralaya, Mahanadi Bhawan, Nava Raipur, District Raipur Chhattisgarh.
4. District Mining Officer Mining Office, Collectorate Campus, Rajnandgaon, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Manoj Paranjpe, Adv.
For Income Tax Authorities	:	Mrs. Naushina Afrin Ali, Adv

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/06/2020

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 14.02.2020 and 28.02.2020 (Annexure P/1 Collectively).
2. The notices issued are in respect of an amount of Rs.28,51,402/- due from the District Mining Officer, Collectorate Campus, Rajnandgaon for the assessment years 2017-2018 & 2018-19.
3. The counsel for the Petitioner submits that so far as the contribution made towards the District Mineral Foundation is concerned, the same has been regularly paid by the petitioner that there is no default as such on the part of the petitioner.
4. According to the Counsel for the Petitioner, since there is no default on the part of the petitioner, the notices Annexure P/1 issued to the petitioner are not sustainable and the same has been issued without

affording any opportunity of hearing to the petitioner by which the petitioner could have clarified his situation.

5. 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.

6. 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 to the Income Tax Officials 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. It is made clear that in addition to any statement made by the Petitioner, he shall make a fresh statement to the Income Tax Officials, as is required u/s 226(3)(vi) of the Income Tax Act 1961.

7. 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.

8. 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.

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

Sd/-

(P. Sam Koshy)
Judge