NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 60 of 2020

1. M/s J K Lakshmi Cement Ltd. Through - The General Manager (Accounts), Village Malpurikhurd, Khasadih, Post - Ahiwara, Tahsil - Dhamdha, District : Durg, Chhattisgarh

---- Petitioner

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), District : Raipur, Chhattisgarh
3. State Of Chhattisgarh Through - The Secretary, Department Of Mineral Resources, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa, District : Raipur, Chhattisgarh
4. District Mining Officer, Mining Office, Collectorate Campus, District : Durg, Chhattisgarh

-----Respondents

For Petitioner	:	Mr. N. Naha Roy, Advocate
For Resp. No.	:	Ms. Naushina A. Ali, Advocate
For State	:	Mr. V. R. Tiwari, Addl. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08.06.2020

1. The default no. 2 pointed out by the Registry as of now stands ignored.
2. The challenge in the present writ petition is to the impugned order Annexure P-1 dated 26.05.2020, whereby the respondent no. 2 i.e., Income Tax Department has rejected the statement of oath earlier submitted by the petitioner under Clause VI of sub section 3 of

section 226 of the Income Tax Act, 1961 in terms of the directive given by this Court in WP(T) No. 51 of 2020 dated 16.03.2020. At the same time, by the impugned order, the respondent-Income Tax Department has sought for certain informations from the petitioner to reach to a conclusion whether there is any default on the part of the District Mining Officer, Collectorate Campus, Durg. The challenge is on the ground that the Income Tax Department could not have rejected their statement of oath and the department should have conducted a detailed enquiry and only then could have proceeded under the provisions of Section 226 (3) of the Income Tax Act.

3. The counsel for the Income Tax Department at this juncture submits that, the impugned order Annexure P-1 is nothing but a notice given to the petitioner seeking for certain informations in-respect-of the payment details that has made against the mining activities carried-out by the petitioner. The counsel for the department further submits that subject to the petitioner furnishing these details and cooperation, the department shall conduct the assessment/enquiry to reach to the conclusion whether there is any default on the part of the petitioner or whether the default is on the part of the District Mining Officer concerned and only thereafter would the authorities pass a fresh order.

4. If we take into consideration the contents of para 9 of the impugned order, it clearly reflects that the case of the Income Tax Department is not at this juncture to declare the petitioner as “deemed assessee in default” rather it is only to ascertain whether the petitioner has in fact complied-with all the requisites as is required under the District

Mineral Foundation. Further from the operative part of the impugned order, it again reflects that the petitioner has been called upon on the 3rd of June, 2020 for production of fresh affidavit supporting with all the relevant documents for such ascertainment.

5. Given the said facts and circumstances of the case, particularly taking note of the contents of Annexure P-1, this Court is of the opinion that the proceedings cannot be said to be in any manner procedurally wrong adopted by the Income Tax Department. Further taking into consideration the submissions made by the Income Tax Department, this Court is of the opinion that the writ petition itself can be disposed off directing the petitioner to furnish the requisite informations sought for vide Annexure P-1 dated 26.05.2020 and subject to the petitioner furnishing these informations and rendering all cooperation, the Income Tax Department shall scrutinize all these documents and then reach to a specific conclusion as to whether there is any default on the part of the petitioner or not and then proceed and pass a fresh order in-accordance-with law.

6. The present writ petition, accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Rahul