NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 88 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 (T D S), Income- Tax Department, Office Of The Income Tax Officer, TDS, ACIT/ DCIT (TDS), Raipur, District : Raipur, Chhattisgarh
3. State Of Chhattisgarh Through The Secretary, Department Of Mineral Resources, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh
4. District Mining Officer, Mining Office, Collectorate Campus, Durg, District : Durg, Chhattisgarh

----- Respondents

For Petitioner	:	Mr. N. Naha Roy, Advocate
For Resp. No. 1/UoI	:	Mr. Himanshu Pandey, Advocate on behalf of Mr. B. Gopa Kumar, A.S.G
For Resp. No. 2	:	Mr. Amit Choudhari, Standing Counsel
For Respondents	:	Ms. Naushina A. Ali, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03.09.2020

1. The challenge in the present writ petition is to the notice Annexure P-1 dated 21.08.2020; whereby the petitioner has been called upon to

participate in the proceedings that has been drawn under the provision of Section 226 (3) of the Income Tax Act, 1961.

2. The present is a third round of litigation at the same stage. Earlier round of litigation was WPT No. 51 of 2020 which was disposed off on 09.03.2020. The second was WPT No. 60/2020 which was disposed off on 08.06.2020, while disposing off the second writ petition on 08.06.2020, this Court in very categorical terms had directed the petitioner to approach the Department and furnish all relevant documents in-respect-of the payment details that the petitioner has made to the State authorities and also submit his reply to the show-cause notice issued and it was further directed that subject to the petitioner furnishing the Statement of Oath and the details of the payment made, the Income Tax Department shall scrutinize all these documents and then reach to a specific conclusion, whether the petitioner would be an assessee in default or not ?

3. The petitioner subsequently is said to have furnished the details available with him in respect of the payments made to the State authorities under the District Mineral Foundation as also paid to the District Mining Officer. Subsequently, the respondent-authorities have now issued Annexure P-1 calling upon the petitioner to submit his explanation as to why they should not be treated as "an assessee in default" upon his failure to furnish these details.

4. The counsel for the petitioner further submits that the entire details have already been submitted to the Department and there is nothing further left available with the petitioner to be provided and the respondent-authorities seems to have ignored those details which the petitioner has provided and have now with a pre-determined mind have issued Annexure P-1 dated 21.08.2020.

5. At this juncture, the Standing counsel for the Department submits that it is only a notice not an order, calling upon the petitioner to furnish whatever he has with him and give explanation as regards notice sent to the petitioner. Subject to the petitioner furnishing appropriate explanation as well as the information that he has with him, the same would be scrutinized and appropriate order would be passed in accordance with law. According to the Standing counsel, the petitioner should not have apprehension as of now till the entire verification and scrutinization of documents that he has submitted is done.

6. Given the said submissions that have been made by the counsel for the parties on either side, this Court is of the opinion that nothing further remains for adjudication at this stage. Since the order assailed is only a notice and the petitioner is expected to appear before the authorities and give his explanation and also explain the details of payment that he has made to the District Mineral Foundation as well as to the District Mining Officer, thereafter the respondent-authorities are expected to take a decision on its merits in accordance with law. Annexure P-1 is a notice calling upon the petitioner on the 31.08.2020 it is expected that the Department shall provide the petitioner another opportunity to appear before them and to submit his explanations and to explain upon the documents that he has submitted, before taking a final decision.

7. With the aforesaid observation, the present writ petition stands disposed off

Sd/-
(P. Sam Koshy)
Judge

Rahul