IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF MARCH, 2020

PRESENT

THE HON'BLE MR.ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE ASHOK S. KINAGI

WRIT PETITION NO. 33162 OF 2019 (GM-MMS)

BETWEEN:

M/S G.T.B. ENTERPRISES
No.233, THAMMANAYAKANAHALLI VILLAGE
THAMMANAYAKANAHALLI POST
KASABA HOBLI, ANEKAL TALUK
BENGALURU URBAN DISTRICT – 562 106
REP. BY ITS MANAGING PARTNER
SRI B. T. NAGARAJ REDDY

... PETITIONER

(BY SRI GANAPATHI BHAT VAJRALLI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   REP. BY ITS CHIEF SECRETARY
   VIDHANA SOUDHA
   DR. B. R. AMBEDKAR VIDHI
   BENGALURU – 560 001

2. THE PRINCIPAL SECRETARY
   DEPARTMENT OF MINES AND GEOLOGY
   VIDHANA SOUDHA
   DR. B. R. AMBEDKAR VIDHI
   BENGALURU – 560 001

3. THE DIRECTOR
   DEPARTMENT OF MINES AND GEOLOGY
   KANIJA BHAVAN
   RACE COURSE ROAD
   BENGALURU – 560 001

4. THE SENIOR GEOLOGIST
DEPARTMETN OF MINES AND GEOLOGY
BANGALORE URBAN DISTRICT
V.V. TOWER, DR. B. R. AMBEDKAR VIDHI
BENGALURU – 560 001

... RESPONDENTS

(BY SRI V. G. BHANUPRAKASH, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED NOTICE DATED 01.12.2018 AS PER ANNEXURE-N, IMPUGNED NOTICE DATED 24.01.2019 AS PER ANNEXURE-P, IMPUGNED NOTICE DATED 21.02.2019 AS PER ANNEXURE-Q AND IMPUGNED FINAL DEMAND NOTICE DATED 09.07.2019 AS PER ANNEXURE-R ISSUED BY THE 4TH RESPONDENT AND ETC.

THIS PETITION COMING ON FOR ORDERS THIS DAY, ***CHIEF JUSTICE*** MADE THE FOLLOWING:

ORDER

Heard the learned counsel appearing for the petitioner.

2. Issue notice. The learned Additional Government Advocate takes notice for the respondents. The petition is forthwith taken up for final disposal.

3. The petitioner was granted a quarrying lease on 3rd July 2009. The petitioner has challenged the four notices in this petition under Article 226 of the Constitution of India. The first notice at Annexure-N dated 1st December 2018 is based on the drone survey report of 29th October 2018 which calls upon the petitioner to show cause as to why he should not be

directed to pay a royalty on the differential quantity mentioned in the notice. On 24th January 2019, the petitioner filed a reply to the said notice. The reply is at Anenxure-N1.

4. Annexure-P which is the subject matter of challenge is the demand letter dated 24th January 2019 which is a demand based only on audit report for the year 2017-18. Even to the said demand notice, there is a reply dated 12th March 2019 (Annexure-P1). Annexure-Q is another show cause notice based on the drone survey dated 21st December 2018 calling upon the petitioner to show cause as to why the royalty on the basis of differential quantity stated in the notice should not be ordered to be paid by the petitioner. There is a reply dated 13th March 2019 at Annexure-Q1 filed to the said notice. The last notice subject matter of challenge is Annexure-R which is issued demanding the arrears of royalty for the year 2017-18.

5. Thus, as far as the notices at Annexures-N, P and Q are concerned, there are already replies submitted by the petitioner. As far as Annexure-P is concerned, it is a demand for the year 2017-18 on the basis of the audit report for which there is a reply. The notice dated 8th July 2019 (Annexure-R)

has been issued without considering the reply issued by the petitioner to the earlier notice for the same year based on the audit report.

6. Though the notice at Annexure-Q refers to the reply filed by the petitioner, the same is based on the drone survey report of 21st December 2018, whereas, the earlier notice to which the reply is submitted is based on the drone survey report of 29th October 2018. Hence, this petition deserves to be disposed of directing the respondents to consider the replies issued to the first three notices and to pass appropriate orders. Accordingly, we pass the following order:

(i) We direct the concerned respondents to pass orders on Anneuxres-N, P and Q after taking into consideration of the reply submitted by the petitioner and after giving an opportunity of being heard to the petitioner. This exercise shall be completed within a period of two months from today;

(ii) The impugned notice at Annexure-R is set aside only on the ground that the demand made therein will have to be considered while dealing

with the demand based on the audit report of the year 2017-18;

(iii) Accordingly, the petition is disposed of with the above directions.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

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