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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NOS.28589, 28654 & 29799 TO 29802 OF 2016

AND

W.M.P.NOS.24663, 24664, 24725, 24726, 25799, 25801,
25803 & 25805 OF 2016, 2195 & 2196 OF 2018

M/S.CHETTINAD CEMENT CORPORATION LIMITED,
RANI SEETHAI HALL BUILDINGS,
NO.603, ANNA SALAI,
CHENNAI - 600 002,
TAMIL NADU.

... Petitioner in all W.P's

.Vs.

- 1 THE STATE OF TAMIL NADU,
REP. BY THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT,
FORT ST. GEORGE, SECRETARIAT,
CHENNAI - 600 009.
- 2 THE COMMISSIONER OF GEOLOGY AND MINES,
THIRU.VI.KA.INDUSTRIAL ESTATE, GUINDY,
CHENNAI - 600 032.
- 3 THE DISTRICT COLLECTOR,
OFFICE OF THE DISTRICT COLLECTOR,
COLLECTORATE,
ARIYALUR.
- 4 THE UNION OF INDIA,
MINISTRY OF MINES,
THROUGH SECRETARY MINISTRY OF MINES,
SHASTRY BHAVAN,
NEW DELHI - 110 001.

... Respondents in
W.P.No.28589 of 2016

- 1 THE STATE OF TAMIL NADU,
REP. BY THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT,
FORT ST. GEORGE, SECRETARIAT,
CHENNAI - 600 009.



2 THE COMMISSIONER OF GEOLOGY AND MINES,
THIRU. VI. KA. INDUSTRIAL ESTATE,
GUINDY, CHENNAI - 600 032.

3 THE ASSISTANT DIRECTOR,
GEOLOGY AND MINING,
COLLECTORATE,
KARUR - 639 005.

4 THE UNION OF INDIA,
MINISTRY OF MINES THROUGH SECRETARY,
MINISTRY OF MINES,
SHASTRY BHAVAN,
NEW DELHI - 110 001.

... Respondents in
W.P.No.28654 of 2016

1 THE STATE OF TAMIL NADU,
REP. BY THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT,
FORT ST. GEORGE, SECRETARIAT,
CHENNAI - 600 009.

2 THE COMMISSIONER OF GEOLOGY AND MINES,
THIRU. VI. KA. INDUSTRIAL ESTATE,
GUINDY, CHENNAI - 600 032.

3 THE ASSISTANT DIRECTOR,
GEOLOGY AND MINING,
COLLECTORATE,
DINDIGUL - 624 004.

4 THE UNION OF INDIA,
MINISTRY OF MINES THROUGH SECRETARY,
MINISTRY OF MINES,
SHASTRY BHAVAN,
NEW DELHI - 110 001.

... Respondents in
W.P.No.29799 of 2016

1 THE STATE OF TAMIL NADU,
REP. BY THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT,
FORT ST. GEORGE, SECRETARIAT,
CHENNAI - 600 009.

2 THE COMMISSIONER OF GEOLOGY AND MINES,
THIRU. VI. KA. INDUSTRIAL ESTATE,
GUINDY, CHENNAI - 600 032.



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3 THE ASSISTANT DIRECTOR,
GEOLOGY AND MINING,
COLLECTORATE,
DINDIGUL - 624 004.

4 THE UNION OF INDIA,
MINISTRY OF MINES THROUGH SECRETARY,
MINISTRY OF MINES,
SHASTRY BHAVAN,
NEW DELHI - 110 001.

... Respondents in
W.P.No.29800 of 2016

1 THE STATE OF TAMIL NADU,
REP. BY THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT,
FORT ST. GEORGE, SECRETARIAT,
CHENNAI - 600 009.

2 THE COMMISSIONER OF GEOLOGY AND MINES,
THIRU. VI. KA. INDUSTRIAL ESTATE,
GUINDY, CHENNAI - 600 032.

3 THE ASSISTANT DIRECTOR,
GEOLOGY AND MINING,
COLLECTORATE,
DINDIGUL - 624 004.

4 THE UNION OF INDIA,
MINISTRY OF MINES THROUGH SECRETARY,
MINISTRY OF MINES,
SHASTRY BHAVAN,
NEW DELHI - 110 001.

... Respondents in
W.P.No.29801 of 2016

1 THE STATE OF TAMIL NADU,
REP. BY THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT,
FORT ST. GEORGE, SECRETARIAT,
CHENNAI - 600 009.

2 THE COMMISSIONER OF GEOLOGY AND MINES,
THIRU. VI. KA. INDUSTRIAL ESTATE,
GUINDY, CHENNAI - 600 032.

3 THE ASSISTANT DIRECTOR,
GEOLOGY AND MINING,
COLLECTORATE,
DINDIGUL - 624 004.



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4 THE UNION OF INDIA,
MINISTRY OF MINES THROUGH SECRETARY,
MINISTRY OF MINES,
SHASTRY BHAVAN,
NEW DELHI - 110 001.

... Respondents in
W.P.No.29802 of 2016

COMMON PRAYER:-

These Writ Petitions are filed Under Article 226 of the Constitution of India, to issue a writ of Certiorari;

PRAYER IN W.P.NO.28589 OF 2016:-

Calling for the records of the third respondent comprised in the demand notice issued by the 3rd respondent dated 30.06.2016 bearing Rc.No.25/G&M/2016 and quash the same as arbitrary and illegal in view of the retrospective demand without authority of law.

PRAYER IN W.P.NO.28654 OF 2016:-

Calling for the records of the third respondent comprised in the demand notice bearing Rc.No.404/Mines/2016-2019 dated 29.06.2016 issued by the 3rd respondent and quash the same as arbitrary and illegal in view of the retrospective demand without authority of law.

PRAYER IN W.P.NO.29799 OF 2016:-

Calling for the records of the third respondent comprised in the demand notice bearing No.Rc.No.886/2015 dated 30.06.2016 issued by the 3rd Respondent to the Petitioner demanding payment for a sum of Rs.26,94,412/- and quash the same as arbitrary and illegal in view of the retrospective demand without authority of law.

PRAYER IN W.P.NO.29800 OF 2016:-

Calling for the records of the third respondent comprised in the demand notice bearing No.Rc.No.886/2015 dated 30.06.2016 issued by the 3rd Respondent to the Petitioner demanding payment for a sum of Rs.11,61,543/- and quash the same as arbitrary and illegal in view of the retrospective demand without authority of law.



PRAYER IN W.P.NO.29801 OF 2016:-

Calling for the records of the third respondent comprised in the demand notice bearing No.Rc.No.886/2015 dated 30.06.2016 issued by the 3rd Respondent to the Petitioner demanding payment for a sum of Rs.4,99,077/- and quash the same as arbitrary and illegal in view of the retrospective demand without authority of law

PRAYER IN W.P.NO.29802 OF 2016:-

Calling for the records of the third respondent comprised in the demand notice bearing No.Rc.No.886/2015 dated 30.06.2016 issued by the 3rd Respondent to the Petitioner demanding payment for a sum of Rs.16,000/- and quash the same as arbitrary and illegal in view of the retrospective demand without authority of law.

For Petitioner : Mr.T.Balaji
(In all Writ Petitions)

For Respondents : Mr.B.Vijay
Additional Government Pleader
For R1 to R3

Mr.A.Veeramani
Central Government
Standing Counsel
For R4
(In all Writ Petitions)

C O M M O N O R D E R

The demand notice issued by the third respondent in proceedings dated 29.06.2016 & 30.06.2016 respectively, are under challenge in all these Writ Petitions.

2. The issues involved in all these writ petitions are similar and thus, common order is passed.

3. The demand notice was issued asking the petitioners to remit the National Mineral Exploration Trust Fund under the head of account mentioned in the demand notice with effect from 12.01.2015 and to produce the original remitted challans



enabling the respondents to send a consolidated monthly collection statement to the Government of India.

4. The issue in short raised is that whether the National Mineral Explorations Trust Fund can be collected from 12.01.2015 or from the date of notification issued by the Government of India invoking Section 9(C) of Mines and Minerals (Development and Regulation) Act, 1956 (in short 'Act').

5. The learned counsel for the petitioner made a submission that the issues raised in this regard is no more res integra and the Hon'ble High Court of Chhattisgarh in the case of Jindal Steel & Power Limited and others Vs State of Chhattisgarh and others, in W.P.C.No.1504 of 2016, has stated that the contribution towards National Minerals Exploration Trust, shall be payable with effect from 14.08.2015 i.e., from the date of publication of the Trust Rules, which was constituted as National Mineral Exploration Trust (14.08.2015).

6. Relying on the said judgment, the learned counsel for the petitioner made a submission that the demand notices are liable to be set aside and the petitioner is liable to pay the Trust fund only with effect from the date of notification i.e., (14.08.2015).

7. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 disputed the said contention by stating that the Hon'ble Rajasthan High Court held that the Act provides Revision and the petitioner is bound to approach the Revisional Authority for the purpose of adjudication of issues on merits. Thus, the Hon'ble Rajasthan High Court has not decided the issue whether the contribution must be collected from the date of amendment to the Act or from the date of notification issued by the Government of India.

8. In view of contra judgments, this Court considered the provisions of the Act for the purpose of understanding the scope of Section 9(C) of the Act denotes National Minerals Exploration Trust Sub Section (1) which contemplates " the Central Government shall, by notification, established a Trust, as a non profitable organization to be called as National Mineral Exploration Trust". The language attracted in sub-section (1) is unambiguous and the trust will come into existence only on notification by the Central Government. The legislatures that even to enact that the trust must be constituted only by way of



notification by the Central Government. Thus, it was not constituted directly under the provisions of Section 9(C) of the Act. But the Central Government shall, by notification, can establish a Trust. Thus, only after issuance of notification, the Trust stands established and not before that. Furthermore, the Central Government has no option as the provision states that the Central Government shall, by notification, can establish a trust.

9. Under these circumstances, the Central Government issued a notification admittedly on 14.08.2015 and framed rules and accordingly, National Mineral Exploration Trust was established. Therefore, the date of establishment would be the criteria for the purpose of collection of fund for the Trust in respect of non-existing Trust funds cannot be collected prior to 14.08.2015. Admittedly, the Trust was in existence and Section 9 (C) of the Act contemplates that the Trust stands established only after issuance of notification by the Central Government. This being the scope of amendment and the date on which the Trust is established, the Authorities competent are empowered to collect fund from the petitioner, with effect from the date of notification as well as the Rules i.e., 14.08.2015.

10. As far as the issue relating to quantification of the amount to be paid is concerned, the authorities competent are empowered to quantify the amount to be paid with effect from 14.08.2015 onwards. In the event of any grievance in respect of calculation or otherwise, it is for the individual petitioner to approach the Revisional Authority under the provisions of the Act for adjudication of issues on merits.

11. In view of the fact that the interpretation of the provisions of the Act as well as the date of notification is considered by this Court in these writ petitions, rest of the issues are to be adjudicated on merits based on the documents and evidences before the competent authority and aggrieved persons can approach the Revisional Authority.

12. This being the factum established, this Court is of the opinion that the National Mineral Exploration Trust was established by way of notification by the Central Government with effect from 14.08.2015 and the Rules were also published on that date. Thus, the petitioners are liable to pay their respective contribution to the National Mineral Exploration Trust Fund with effect from 14.08.2015 onwards. The respondents are directed to recalculate the dues to be paid by the



petitioner and issue a fresh demand notice enabling the petitioner to settle the amount. On receipt of the demand notices, the petitioner is directed to settle the amount as specified in the demand notice and the period to be stipulated in the demand notice by the competent Authorities.

13. Accordingly, the impugned notices issued by the respondents in proceedings Nos.Rc.No.25/G&M/2016, Rc.No.404/Mines/2016-19, Rc.No.886/2015, dated 29.06.2016 & 30.06.2016 respectively, are quashed and the matters are remitted back to the Authorities for issuing a fresh demand notice which is to be issued by stating that the petitioner is liable to pay the contribution with effect from 14.08.2015 onwards. The said exercise is directed to be done by the respondents within a period of four weeks from the date of receipt of a copy of this order.

14. Accordingly, these Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmm

To

1. The Secretary to Government,
The State of Tamil Nadu,
Industries Department,
Fort St. George,
Secretariat,
Chennai - 600 009.
2. The Commissioner of Geology and Mines,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032.
3. The District Collector,
Office of the District Collector,
Collectorate,
Ariyalur.



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4. The Union of India,
Ministry of Mines,
Through Secretary Ministry of Mines
Shastry Bhavan,
New Delhi - 110 001.

5. The Assistant Director,
Geology and Mining,
Collectorate,
Karur - 639 005.

6. The Assistant Director,
Geology and Mining,
Collectorate,
Dindigul - 624 004.

+6ccs to Mr.T.Balaji, Advocate, S.R.Nos.65662 to 65667
+1cc to the Government Pleader, S.R.No.66138

W.P.NOS.28589, 28654 & 29799
TO 29802 OF 2016

SSV(CO)
PBS/19/01/2022