



WEB COPY



W.P.Nos.730 & 731 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.730 & 731 of 2008

M/s.ACC Limited,
a Company incorporated under the Companies
Act, 1956, having its Registered Office at
Cement House, 121, Maharshi Karve Road,
Mumbai – 400 020 and
Having one of its Offices at
Madukkarai Cement Works,
P.O. Madukkarai – 641 105,
District Coimbatore (Tamil Nadu)
through its Plant Head of
Madukkarai Cement Works,
Mr Hasan Vedant Narsimha Kumar. ...Petitioner in both W.P.'s

Vs.

- 1.The State of Tamil Nadu
Through its Secretary,
Industries Department,
Fort St George,
Chennai – 9.
- 2.The Director of Geology & Mines,
Guindy, Industrial Estate, Chennai - 32.
- 3.Deputy Directors of Mines,
Geo-Tech. Cell, Old RDO Office,
Apple Bye Road, Coonoor,
Nilgiris District.
- 4.The District Collector,
Coimbatore District,



W.P.Nos.730 & 731 of 2008

Coimbatore, Tamil Nadu.

5. The District Collector,
Nilgiris District, Tamil Nadu.
6. The Madukkarai Panchayat Union,
Through its Chairman, Madukkarai,
District Coimbatore, Tamil Nadu.
7. The Kotagiri Panchayat Union,
Through its Chairman,
Nilgiris District, Tamil Nadu.

...Respondents

Prayer in WP.No.730 of 2008: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of mandamus directing the respondents to return and/or refund forthwith to the petitioner, the amount of Civil Deposits in the sum of Rs.1,50,50,000 (Rupees One Crore Fifty Lakhs Fifty Thousand only) or such other sum as may be found payable/refundable in accordance with law and in the light of the law declared by the Hon'ble Supreme Court in District Mining Officer & Ors. Vs. Tata Iron and Steel Co. & Anr. (TISCO) reported in (2001) 7 SCC 358 along with interest on the Civil Deposits @ 18 per cent per annum (or such rate as this Hon'ble Court may deem fit) from the date(s) of payments by the respondents (or from any other date that this Hon'ble Court deems fit) until repayment/refund to and realisation of the said amount by the petitioner herein.

Prayer in WP.No.731 of 2008: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of mandamus directing the respondents to return and/or refund forthwith to the petitioner, the amount of Civil Deposits in the sum of Rs.1,50,000 (Rupees One Lakh Fifty Thousand only) or such other sum as may be found payable/refundable in accordance with law and in the light of the law declared by the Hon'ble Supreme Court in District Mining Officer & Ors. Vs. Tata Iron and Steel Co. & Anr. (TISCO) reported in (2001) 7 SCC 358 along with interest on the Civil Deposits @ 18 per cent per annum (or such rate as this Hon'ble Court may deem fit) from the date(s) of payments by the respondents (or from any other date that this Hon'ble Court deems fit) until repayment/refund to and realisation of the said amount by the petitioner herein.



WEB COPY



W.P.Nos.730 & 731 of 2008

For Petitioner : Mr.Karthik Rajan
For Respondents : Mr.B.Vijay [R1 to R5]
Additional Government Pleader
: Mr.S.V.Durai Solaimalai [R6]
: No appearance for R7

ORDER

The petitioner seeks mandamus directing the respondents being the State of Tamil Nadu/R1, Director and the Deputy Directors of Mines/R2 & R3 and various authorities in the State as well as in Panchayat Union to return and/or refund the amount of civil deposits in the sum of Rs.1,50,50,000/- or such other sum as may be found payable/refundable or in accordance with Law in the light of the law declared by the Hon'ble Supreme Court in *District Mining Officer &Ors. Vs. Tata Iron and Steel Co. & another (TISCO)* reported in (2001) 7 SCC 358 along with interest on the Civil Deposits at the rate of 18 per cent per annum or such rate as this Court may deem fit from the dates of the payment to the respondents until repayment/refund to and realization of the said amount by the petitioner.

2. I am of the considered view, that this prayer for mandamus is not maintainable before this Court and ought to have been made before the authorities. The petitioner appears to have been in correspondence with the Collector, Nilgiris in the year 2004 seeking refund of local cess and local cess surcharge (LCLCS) amounts and the collector vide his communication in



W.P.Nos.730 & 731 of 2008

Rc.No.136/04/M dated 19.12.2004, has rejected the request referring to the same case as cited by the petitioner.

WEB COPY

3. Learned counsel for the petitioner would also rely upon the judgment of the Hon'ble Supreme Court in the case of *State of Chhattisgarh & Another Vs. ACC Limited & Another*, Civil Appeal No.2279 to 2281 of 2007 dated 11.03.2016 and another of Chattisgarh High Court in the case of *Akheraj Lunia, Mine Owner and Etc. Vs. Union of India*, (AIR 2006 Chh 72].

4. Both the judgments relate to demands of cess and cess surcharge under the provisions of the Cess and Other Taxes on Minerals (Validation) Act, 1992 (In short 'Validation Act'). The periods in question straddle both pre and post, 04.04.1991, being the date upto which the Validation Act was in operation.

5. In the aforesaid circumstances, the determination of amount to be returned/refunded and the factum of such return/refund, is subject to a process to be embarked upon in line with the ratio of the above judgements. Thus, it is only appropriate for the Assessing Officer/Adjudicating Authority to answer the request of the petitioner by hearing the party, determining the quantum of the amounts stated to have been paid and the dates of payment, among other applicable factors.

6. For the aforesaid reasons, I am not inclined to issue mandamus but permit the petitioner to make a representation before the authority reiterating



W.P.Nos.730 & 731 of 2008

the same request as raised before this Court. Such request, if and when made by the petitioner, shall be considered by R1 in light of the settled position as set out in the judgment in the case of *Tata Iron and Steel Co.* (supra) as well as other relevant decisions, and disposed within a period of six weeks from date of receipt thereof. These writ petitions are dismissed, though with liberty. No costs.

08.12.2022

ska

Index : Yes/No

Speaking Order/Non speaking Order

To

- 1.The State of Tamil Nadu
Through its Secretary,
Industries Department,
Fort St George,
Chennai – 9.
- 2.The Director of Geology & Mines,
Guindy, Industrial Estate, Chennai - 32.
- 3.Deputy Directors of Mines,
Geo-Tech. Cell, Old RDO Office,
Apple Bye Road, Coonoor,
Nilgiris District.
- 4.The District Collector,
Coimbatore District,
Coimbatore, Tamil Nadu.

DR.ANITA SUMANTH,J.

Ska

- 5.The District Collector,



W.P.Nos.730 & 731 of 2008

Nilgiris District, Tamil Nadu.

6. The Madukkarai Panchayat Union,
Through its Chairman, Madukkarai,
District Coimbatore, Tamil Nadu.

7. The Kotagiri Panchayat Union,
Through its Chairman,
Nilgiris District, Tamil Nadu.

W.P.Nos.730 & 731 of 2008

08.12.2022