IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-03-2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.38725 of 2016
And
WPMP Nos.33183 and 33184 of 2016

The Ramco Cement Ltd.
Formerly known as M/s.Madras Cements Ltd.
Rep. by its Senior Deputy General Manager – Legal
No.98A, Auras Corporate Centre, V floor,
Dr.Radhakrishnan Salai, Mylapore,
Chennai – 600004
Tamil Nadu. ...Petitioner

Vs.

1.State of Tamil Nadu
Rep by Secretary to Government,
Industries Department,
Fort St. George, Secretariat
Chennai – 9.

2.Commissioner of Geology and Mines,
Thiru Vi Ka Industrial Estate
Guindy,
Chennai 600 032.

3.The District Collector
Office of the District Collector,
Collectorate,
Perambalur.

4.The District Collector
Office of the District Collector,
Collectorate,

Virudhunagar.

5.The District Collector
Office of the District Collector,
Collectorate,
Thoothukudi.

6.The Union of India,
Ministry of Mines,
Through Secretary, Ministry of Mines,
Shastry Bhavan, New Delhi – 110 001. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records comprised in the demand notice issued by the fifth respondent to the petitioner bearing Rc.No.G.M.1/382/2016 dated 09.08.2016 and quash the same as arbitrary and illegal in view of the retrospective demand without authority of law and direct the second respondent to issue instructions to the respondents 3 to 5, their men, agents, subordinates etc., for collection of contribution towards the National Mineral Exploration Trust only with effect from 14.08.2015, i.e., the date of Notification of the National Mineral Exploration Trust Rules, 2015 and not for any period before 14.08.2015.

For Petitioner	: Mr.Rahul Balaji
For Respondents-1 to 5	: Mr.Abishekmurthy, Government Advocate.
For Respondent-6	: No Appearance

ORDER

The relief sought for in the present writ petition is to call for the records comprised in the demand notice issued by the fifth respondent to the petitioner bearing Rc.No.G.M.1/382/2016 dated 09.08.2016 and quash the same as arbitrary and illegal in view of the retrospective demand without authority of law and direct the second respondent to issue instructions to the respondents 3 to 5, their men, agents, subordinates etc., for collection of contribution towards the National Mineral Exploration Trust only with effect from 14.08.2015, i.e., the date of Notification of the National Mineral Exploration Trust Rules, 2015 and not for any period before 14.08.2015.

2. The demand notice was issued asking the petitioner to remit the National Minerals 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 of statement to the Government of India.

3. 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').

4. 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).

5. Relying on the said judgment, the learned counsel for the petitioner made a submission that the demand notice is 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).

6.The learned Government Advocate, appearing on behalf of the respondents 1 to 5 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.

7. 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.

8.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.

9. 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.

10. 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 this writ petition, 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.

11. 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.

12. With these observations, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

17-03-2023

Speaking Order/Non-Speaking Order.
Neutral Citation : Yes/No.
Internet : Yes/No.
Index: Yes/No.
Svn

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State of Tamil Nadu
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S.M. SUBRAMANIAM, J.

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