

# THE HIGH COURT OF MEGHALAYA AT SHILLONG.

## W.P. (C) No.374/2013

M/s Gold Stone Cements Ltd.,  
Village Musiang Lamare (Old)  
P.O. Khliehriat – 793200,  
East Jaintia Hills District, Meghalaya.

:::: **Petitioner.**

### **-VERSUS-**

1. State of Meghalaya, represented by the  
Principal Secretary to the Govt., of Meghalaya,  
Excise, Registration, Taxation and Stamps Department,  
Shillong – 793001.
  2. The Commissioner of Taxes,  
Government of Meghalaya, Shillong – 793001.
  3. The Superintendent of Taxes,  
Khliehriat Circle, Khliehriat,  
East Jaintia Hills District-793200,  
Meghalaya.
  4. The Superintendent of Taxes,  
Byrnihat Sales Tax Check Gate, P.O. Byrnihat District  
Ri-Bhoi – 793102 Meghalaya.
- :::: **Respondents.**

### **BEFORE THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH THE HON'BLE MR. JUSTICE S R SEN**

For the Petitioner	:	Mr. SP Sharma, Mr. BK Deb Roy, Mr. M Sharma, S Shrestha, E Gurung, SS Gewali, Advs
For the Respondents	:	Mr. KS Kynjing, Advocate General Mr. K Khan, Addl. Sr. GA.
Date of hearing	:	<b>16.12.2013</b>
Date of Judgment & Order	:	<b>16.12.2013</b>

## JUDGMENT AND ORDER (ORAL)

**(T. Nandakumar Singh, J)**

Heard Mr. M Sharma, learned counsel appearing for the petitioner as well as Mr. KS Kynjing, learned Advocate General, Meghalaya assisted by Mr. K Khan, learned Additional Sr. Govt. Advocate for the respondents.

2. As proposed by the learned counsel appearing for the parties, this writ petition is taken up for disposal at this stage.

3. The brief facts leading to the filing of the present writ petition are noted. The petitioner is a public limited company incorporated under the provisions of Companies Act, 1956 having its registered office at village Musiang, Lamare (Old), Khliehriat. The petitioner also registered under the North East Industrial and Investment Promotion Policy (NEIIPP), 2007. In this regard, a certificate had been issued by the General Manager, District Industries Centre, Jaintial Hills District, Jowai on 20.06.2011.

4. It is also stated that the petitioner is entitled or otherwise eligible for all the incentives and exemptions as granted by the Govt. through various policies from time to time like the Industrial Policy of 1997 and the North East Industries and Investment Promotion Policy (NEIIPP), 2007. The petitioner was also issued with a Single Window Agency (SWA) approved by the Director of Commerce & Industries, Govt. of Meghalaya vide certificate No.M/Dind/Genl/176/2007 dated 10.09.2007 granting permission to set up a cement plant along with captive power plant in Jaintia Hills District, Meghalaya which was subsequently renewed up to 20.12.2017 vide letter No.M/Dind/Genl/180/2013 dated 11.01.2013. It is also stated that the

respondents had introduced a number of incentives, exemptions like tax holidays, capital investment subsidy, freight subsidy, transport subsidy, insurance subsidy to name a few to various investors to encourage them to set up industries and factories in the said areas to promote investment and industrialization in the economically backward areas of the country.

**5.** The petitioner is developing the infrastructure for construction of the cement manufacturing plant in the year 2009 and also purchasing construction materials for construction of the cement plant. It is also stated in the writ petition that the petitioner had been purchasing various construction/building materials, plant machinery etc. with all required documents and procedures from various dealers from across the country exclusively for the purpose of construction of the said cement plant and other infrastructure by paying 2% CST as mentioned in the CST certificate till date. It is stated that the Commissioner of Taxes under his letter dated 02.09.1996, directed the Superintendent of Taxes to take security deposit of Rs.8000/- for road permit for bringing iron rods to the State. Copy of it is available at Annexure-IV to the writ petition.

**6.** Mr. M. Sharma, learned counsel for the petitioner has drawn the attention of this Court to the said letter of the Commissioner of Taxes dated 02.09.1996 and stated that the said notice will be applicable only to the dealers who are bringing iron rods, iron flats etc. and also stated that the petitioner is not dealing with iron rods and others but the construction materials like iron rods and others brought by the petitioner are only for construction of the cement factory. It is also stated that since 2009, the petitioner had been bringing iron rods to the State for construction of the cement factory and the Superintendent of Taxes did not impose the condition mentioned in the said letter of the Commissioner of Taxes dated 02.09.1996 to the petitioner inasmuch as, the petitioner is not

bringing iron rods for commercial purpose but for construction of the cement factory.

7. To the contra Mr. KS Kynjing, learned Advocate General, Meghalaya appearing for the respondents contended that there are instances of selling the iron rods brought to the State for the construction of buildings to other persons. But it is the case of the petitioner that the petitioner in no instances, had sold out the iron rods brought to the State for construction of the cement factory. It is made clear that we are not deciding this issue in the writ petition. On *prima facie*, it appears that the said letter/order of the Commissioner of Taxes dated 02.09.1996 is applicable to the dealers of iron rods and others. It is stated that the two trucks of the petitioner had been detained at Byrnihat for the reason that for the said two trucks carrying iron rods the petitioner had not deposited the security deposit of Rs.20,000/- each in pursuance of the subsequent letter/order of the Commissioner of Taxes dated 14.08.2013. Hence, this writ petition.

8. It is also stated in the writ petition that the petitioner had already approached the Commissioner of Taxes by filing a representation dated 22.11.2013 for the reasons stated therein that the said letter/order of the Commissioner of Taxes dated 14.08.2013 is not applicable to the present petitioner-company. As on today, it is clear that the said representation dated 22.11.2013 has not yet been disposed of by the Commissioner of Taxes, Govt. of Meghalaya by passing a reasoned order. It is also further stated that later on, the petitioner also filed a representation dated 06.12.2013 to the Superintendent of Taxes i.e. respondent No.3, the said representation is still pending.

9. In the above factual backdrop, this writ petition is disposed of by directing the Commissioner of Taxes, Govt. of Meghalaya (respondent No.2) to consider and dispose of the said representation dated 22.11.2013 which is a self

speaking one by passing a reasoned order keeping in view of the Industrial Policy mentioned above within a period of two weeks' from the date of receipt of a certified copy of this judgment and order.

**10.** With the above observations and directions, this writ petition stands disposed of.

**JUDGE**

**JUDGE**

**Lam**