

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (T) No. 7445 of 2012

Mann Steel & Power Limited, having its Corporate Office at 58/1, Sharat Bose Road, Kolkata 700 025, through its Manager and Authorized Signatory Nikhil Agarwal, son of Sri Pramod Agarwal, resident of 9/1, Lower Rowdown Street, Mani Mansion, Kolkata-700020 (West Bengal)

... Petitioner

Versus

1. Central Coalfields Limited, through its Chairman-cum-Managing Director, Darbhanga House, P.O. Kutchari, P.S. Kotwali, Ranchi, District Ranchi
2. Director (Finance), Central Coalfields Limited, Darbhanga House, P.O. Kutchari, P.S. Kotwali, Ranchi, District Ranchi
3. General Manager, Sales & Marketing, Central Coalfields Limited, Darbhanga House, P.O. Kutchari, P.S. Kotwali, Ranchi, District Ranchi
4. The Secretary cum Commissioner of Commercial Taxes, Commercial Taxes Department, Government of Jharkhand, Project Building, H.E.C., Dhurwa, P.O. - Dhurwa, P.S.- Jagannathpur, District Ranchi

... Respondents

With

W.P. (T) No. 7218 of 2012

Super Smelters Limited, having its registered office at 39, Shakespeare Sarani, 'PREMLATA', 3rd Floor, Kolkata 700017; through its Director Deepak Agarwal, son of Shri Sitaram Agarwal, resident of 39, Shakespeare Sarani, 3rd Floor, Kolkata 700 017 (West Bengal)

... Petitioner

Versus

1. Central Coalfields Limited, through its Chairman-cum-Managing Director, Darbhanga House, P.O. Kutchari, P.S. Kotwali, Ranchi, District Ranchi
2. Director (Finance), Central Coalfields Limited, Darbhanga House, P.O. Kutchari, P.S. Kotwali, Ranchi, District Ranchi
3. General Manager, Sales & Marketing, Central Coalfields Limited, Darbhanga House, P.O. Kutchari, P.S. Kotwali, Ranchi, District Ranchi
4. The Secretary cum Commissioner of Commercial Taxes, Commercial Taxes Department, Government of Jharkhand, Project Building, H.E.C., Dhurwa, P.O. - Dhurwa, P.S.- Jagannathpur, District Ranchi

... Respondents

**CORAM: HON'BLE MR. JUSTICE D.N. PATEL
HON'BLE MR. JUSTICE B. B. MANGALMURTI**

For the Petitioners: M/s. Sumeet Gadodia, A.K. Mahato, Advocate

For the Respondents: M/s. A.C. to Atanu Banerjee (GA), Amit Kumar Das

52/Dated: 30th April, 2019

Per D.N. Patel, J.

- 1) These writ petitions have been preferred for getting refund of the excess amount which the petitioners have paid under the mistake of fact and mistake of law to the respondents towards Central Sales Tax.

2) Having heard learned counsel for both sides and looking to the facts and circumstances of the case, it appears that excess amount of tax is presumed to have been recovered by one method or another, directly or indirectly, either as a sale price or by collecting the additional amount of Central Sales Tax towards manufacturing cost or by such other method. These aspects of the matter have to be appreciated by proper and cogent evidences to be led by these petitioners and hence, proper remedy for such type of cases is to file a suit for recovery of the amount and we are not inclined to exercise our powers under Article 226 of the Constitution of India when disputed facts are yet to be established especially of passing of the burden of tax directly or indirectly by these petitioners.

3) Hence, reserving liberty with the petitioners to file suit for recovery of the excess amount, these writ petitions are hereby disposed of. As and when a suit is filed, the same will be decided on its own merit and on the basis of the law and not being influenced by the order passed by this Court in these writ petitions.

4) With these observations, these writ petitions are disposed of.

(D. N. Patel, J)

Manoj/

(B. B. Mangalmurti, J)