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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 74 of 2019

M/s Dolomite Mining Corportation, A Company Duly Incorporated Under The Companies Act, 1956 Having Its Works At Shakti Road, Baradwar, Janjgir Champa, Chhattisgarh. Through Its Authorized Signatory Shri T. Trinath Rao, S/o Suryanarayana Rao Aged About 69 Years, R/o DMC, Shakti Road, Baradwar, Janjgir Champa, Chhattisgarh.

... Petitioner

versus

1- State of Chhattisgarh Through Secretary, Department of Commercial Taxes, Mahanadi Bhavan, Naya Raipur, Raipur Chhattisgarh.

2 - Commissioner of Commercial Tax Vanijyik Kar Bhavan, Civil Lines, Raipur, District : Raipur, Chhattisgarh.

3- Deputy Commissioner, Commercial Tax, Division - II, Bilaspur, Chhattisgarh.

4- Assistant Commissioner Commercial Tax, Bilaspur, District : Bilaspur, Chhattisgarh.

5- Bokaro Steel Plant / Steel Authority of India (Sail) Ispat Bhawan, Bokaro Steel City, Bokaro, Jharkhand., District : Bokaro, Jharkhand.

... Respondent(s)

For Petitioner	**:**	Mr. Neelabh Dubey, Advocate along with Mr. Jitendra Sahu, Advocate
For Respondents No.1 to 4/ State	**:**	Ms. Anuradha Jain, Deputy Government Advocate
For Respondent No.5	**:**	Mr. Gagan Tiwari, Advocate, holding the brief of Dr. Saurabh Kumar Pande, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Judgment on Board

19/01/2026

1. The petitioner has filed this petition seeking the following relief(s):-

> "**10.1** Calling for the records of the case.
>
> **10.2.** Quashing the order dated 17.12.2018 for assessment year 2008-09 and 2010-11 passed by the Ld. Tribunal being Annexure P/4 as illegal and erroneous.
>
> **10.3** Directing respondent No.5 to issue C-Form to the petitioner company at the earliest or within a specified reasonable time as the Hon'ble Court may deem fit.
>
> **10.4** Remanding the matter for fresh assessment and providing reasonable opportunity of hearing to the petitioner so that he may produce the required statutory forms.
>
> **10.5.** Granting any other relief that the Hon'ble High Court may deem fit."

2. Mr. Dubey, learned counsel appearing for the petitioner would submit that the petitioner company was indulged in the business of excavating dolomite, crushing and selling it in the market. He would further submit that in the year 2008-09 and 2010-11 the dolomite was sold to respondent No.5 pursuant to various supply orders. He would also submit that the respondent No.5, which is a registered company failed to proved C-Forms according to Rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 read with Section 8(4) of the CST Act, 1956 despite several reminders. He would further contend that the respondent No.5 vide letter dated 13.03.2012 informed that the case of supply of material is under CBI investigation, therefore, Form-C cannot be made available at this juncture.

He would argue that for the assessment year 2008-09 and 2010-11 an assessment order was passed by respondent No.4 on 31.12.2015 against the petitioner. He would further argue that against the said order first appeal was preferred before respondent No.3 and same was dismissed vide order dated 31.01.2017, against said order, second appeal was preferred before the learned Tribunal and it was dismissed for want of prosecution vide order dated 17.12.2018. He would submit that against the said order present petition has been preferred.

3. Mr. Dubey would submit that when the matter was under consideration before the Assessment Officer, Form-C was not available with the petitioner, therefore, it could not be produced. He would further submit that during the pendency of this petition, Form-C has been issued by the prescribed authority and same has been provided by the respondent No.5. He would contend that Form C has been placed on record along-with an application for taking document on record; thus, he would pray that the matter may be remitted back to the Assessment Officer to decide it afresh taking into consideration the Form-C provided by respondent No.5.

4. On the other hand, learned counsel appearing for respondent(s) would oppose the submissions made by Mr. Dubey and submit that there is inordinate delay of 15-16 years in submission of Form-C. It is also contended that the matter of the petitioner was decided by the Assessment Officer on merits, and said order was affirmed by the First Appellate Authority vide order dated 31.01.2017 and the matter which has finally been decided cannot be reopened. It is also argued that petitioner has sought relief with regard to issuance of Form-C in relief clause no.3, which has already been issued by respondent No.5, therefore, no relief can be granted in this regard. It is also submitted that the learned Tribunal dismissed the second appeal preferred by the petitioner for want of prosecution and the petitioner should have

approached the said authority for restoration of second appeal; thus, this petition deserves to be dismissed.

5. I have heard learned counsel for the parties and perused the documents.

6. It is true that the second appeal preferred by the petitioner was dismissed for want of prosecution vide order dated 17.12.2018 but, as informed by Mr. Dubey, the learned Tribunal is not in existence, therefore, in my considered opinion, the matter cannot be remitted back to the learned Tribunal to decide it on merits.

7. The petitioner supplied dolomite to respondent No.5 pursuant to various supply orders in the year 2008-09 & 2010-11 and Form-C as required under the law was not issued in favour of the petitioner by respondent No.5. The Assessing Authority while passing assessment order imposed 5 % tax in absence of Form-C.

8. First appeal preferred by the petitioner was also dismissed on merits vide order dated 31.01.2017. The petitioner preferred second appeal, which was dismissed for want of prosecution and against said order this petition has been preferred. During the pendency of this petition, Form-C has been issued by respondent No.5 in favour of petitioner and same has been placed on record along with an application for taking document additional document on record.

9. Rule 12(1) of the Central Sales Tax (Registration and Turnover) Rules, 1957 is reproduced as under:-

> **"12. (1)** The declaration and the certificate referred to in Sub-section (4) of Section 8 shall be in forms C and D respectively :
>
> Provided that form C in force before the commencement of the Central Sales Tax (Registration and Turnover) (Amendment) Rules, 1974, or before the commencement of the Central Sales Tax (Registration and Turnover) (Amendment) Rules, 1976, may also be used up to the 31st December, 1980, with suitable modifications: ..."

10. Section 8(4) of the CST Act, 1956 is also reproduced as under:-

> "[(4) The provisions of sub-section (1) shall not apply to any sale in the course of inter-State trade or commerce unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority:
>
> Provided that the declaration is furnished within the prescribed time or within such further time as that authority may, for sufficient cause, permit.] [Substituted by Act 16 of 2007, Section 4, for sub-Section (4) (w.e.f. 1.4.2007).]"

11. Bare reading of above quoted provisions, would make it clear that purchaser is under obligation to obtain Form C from the prescribed authority and to provide the same to the seller/supplier, but in the present case on account of unavoidable circumstances, the purchaser/respondent No.5 failed to provide said document/Form-C to the petitioner, therefore, it could not be produced before the Assessment Officer in the year 2015 and an adverse order was passed against the petitioner.
12. The Form-C has already been provided by respondent No.5 to the petitioner and same has been placed on record, therefore, without making any observation on merits of the case, the petition is disposed of with a direction to the respondent No.4 to decide the matter afresh after affording due opportunity of hearing to the petitioner.
13. The orders passed by the Assessment Officer & First Appellate Authority are hereby quashed.
14. The petitioner would be at liberty to place relevant documents before the authority concerned.

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15. With the aforesaid observation(s) and direction(s), this writ petition is hereby **disposed of**.

Sd/-

Rakesh Mohan Pandey

JUDGE

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