IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (T) No. 4397 of 2014

With

W.P. (T) No. 1001 of 2019

With

W.P. (T) No. 2324 of 2016

With

W.P. (T) No. 2325 of 2016

With

W.P. (T) No. 4227 of 2018

With

W.P. (T) No. 4228 of 2018

With

W.P. (T) No. 4229 of 2018

With

W.P. (T) No. 4230 of 2018

With

W.P. (T) No. 4415 of 2014

With

W.P. (T) No. 4687 of 2014

With

W.P. (T) No. 4708 of 2014

With

W.P. (T) No. 486 of 2015

With

W.P. (T) No. 5239 of 2015

With

W.P. (T) No. 6225 of 2014

With

W.P. (T) No. 6226 of 2014

With

W.P. (T) No. 6562 of 2012

CORAM : HON'BLE MR. JUSTICE H. C. MISHRA
HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioners	:	M/s Kavin Gulati, Sr. Advocate Biren Poddar, Sr. Advocate, Sumeet Gadodia, Darshana Poddar Mishra, Nitin Kumar Pasari, Advocates.
For the Respondents	:	Mr. Ajit Kumar, Advocate General Mr. Atanu Banerjee, S.C.-III

32/ 26.11.2019 In all these matters, the *vires* of Section 42(3) of the JVAT Act is under challenge, as the assessment of the tax liability of the petitioners had already been made and they had also discharged their liabilities. After the long period of time, exercising the power under Section 42(3) of the JVAT Act, the matter was revisited by the team of C.A.G., and audit objections were made. The Assessing Authorities in view of the objections made by the team of the C.A.G., issued notices to the assessees about reassessment of the taxes, and in some matters the reassessments have also been made and the fresh liabilities have been fixed upon the petitioners assessees, which have been challenged by way of present writ applications.

The matter had been heard at length and on 13.11.2019, in course of arguments, it was submitted by Mr. Atanu Banerjee, learned S.C.-III that in several matters, the Assessing Authority had also dropped the proceedings after issuing notices to the assessees, on the basis of the audit objections under Section 42(3) of the JVAT Act, when it was found that actually no case of reassessment was made out. A supplementary affidavit has also been filed pursuant to the order dated 13.11.2019, on behalf of the State, and learned Advocate General, who represented the State, gave a proposal that in all these matters, the notices for reassessment, or the reassessment orders, shall be revisited by the Assessing Authorities and in case, they find that the matter is fit to be dropped, they shall drop the matter.

Learned counsel for the petitioners have no objection to the same, subject to the condition that no fresh reassessment be made by the Assessing Authorities in garb of revisiting the notices, or the assessment orders.

We find the apprehension of the learned counsels for the petitioners to be very genuine. Learned Advocate General also concedes to this and submits that revisiting of the impugned orders shall be limited to the scope whether the matters are fit to be dropped or not. If the matters are fit to be dropped, the matters would be dropped, and if it is found that the matters cannot be dropped, the Court would be informed accordingly, and those matters shall proceed again. It is submitted by learned Advocate General that this process could not be done earlier, due to ad-interim orders passed in these matters.

In two matters, namely, W.P.(T) No. 4397 of 2014 and W.P.(T) No. 4415 of 2014, ad-interim orders of stay were passed on 17th September, 2014. Similar interim orders have also been passed in other matters also.

In view of the submission of learned Advocate General, we give the liberty to the respondent State to revisit the impugned notices /

orders of reassessment in all these matters individually, irrespective of the interim orders passed in these matters, and if they find that actually no case of reassessment is made out on the audit objections made by C.A.G. team, they may drop the proceedings, and if they find that audit objection made by the C.A.G. team is genuine, and the matter cannot be dropped, this Court be informed accordingly, so that we may proceed with the hearing of the cases from the stage left.

It goes without saying that the ad-interim orders shall continue in all these matters, except to the extent modified as above, by this Court.

It is submitted by learned counsel for the State that due to ensuing Legislative Assembly elections in Jharkhand, the concerned authorities are also engaged in the election process and this matter may take some time.

Accordingly, with the consent of the learned counsels for the parties, we fix all these matters to be listed on 20th January, 2020, by which time, it is expected that the aforesaid process will be completed and necessary information shall be furnished to this Court.

Let a copy of this order be made available to the learned counsels for parties, for the needful.

(H. C. Mishra, J.)

(Deepak Roshan, J.)

R.Kr.