

Court No. - 39

Case :- WRIT TAX No. - 850 of 2016

Petitioner :- M/S Shree Enterprises Coal Sales Pvt. Ltd.
Bulandshahar

Respondent :- Union Of India And Another

Counsel for Petitioner :- Alope Kumar, Ashok Shankar
Bhatnagar, Harshul Bhatnagar

Counsel for Respondent :- A.S.G.I., Krishna Agarawal, Mritunjay
Tiwari

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri Ashok Shankar Bhatnagar alongwith Harshul Bhatnagar, learned counsel for the petitioner and Shri Krishna Agarwal alongwith Shri Amit Goel, learned counsel for the Northern Coal Fields Limited.
2. Upon brief hearing, it transpires, undisputedly the petitioner is a registered dealer inside U.P. It had made a bid to purchase quantities of coal from Northern Coal inside U.P. That bid was accepted.
3. At the stage of quantities and coal being handed over to the Railways for transportation to the petitioner, it submitted three Form-C (under the Central Sales Tax Act, 1956) indicating the destination of the goods to be the outside U.P. Also, there appears to be a claim of concessional right of tax having been charged by the Northern Coal in such circumstances.
4. In view of the subsequent sale made by the petitioner, it claimed to be a sale in transit, Northern Coal refused the same and treated it to be a subsequent transaction independent of the intra state sale concluded in favour of the present petitioner.

5. In such circumstances, petitioner claims wrongful denial of Form E-1 by the Northern Coal. At the same time, status and fate of the assessment of the petitioner for the assessment year 2014-15 is not known. The Assessing Authority of the petitioner is also not impleaded as a party respondent in the proceeding.

6. Since the proceedings have already faced an order of remand made by the Supreme Court, we consider it proper to allow the petitioner to implead its Assessing Authority as party respondent no. 3, during course of the day.

7. Let notice of the petition be served on the office of the learned Chief Standing Counsel within next 48 hours. He may obtain instructions as to the fate of the assessment proceedings of the petitioner for the assessment year 2014-15.

8. Learned counsel for the petitioner may also complete instructions with respect to the above noted facts and, if required, bring the same on record.

9. Accordingly, list on 3rd August, 2023.

Order Date :- 10.7.2023

Shafique

(Vinod Diwakar, J.) (S. D. Singh, J.)