HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

**WA No. 494 of 2023**

South Eastern Coalfields Limited **Versus** Principal Commissioner & Ors

| | |
|---|---|
| 06.12.2023 | Mr. Rajeev Agrawal with Mr. Pankaj Agrawal, Counsel for the appellant.<br><br>Since Respondents No.1 and 2 are represented by Mr. Ashutosh Singh Kacchawaha, Advocate, no formal steps are required.<br><br>Heard on admission.<br><br>Learned counsel for the appellant would submit that initially, a show cause notice was issued to the appellant/petitioner in respect of levy of GST by the State Authorities/respondent No.3 and subsequently, a second show cause notice was also issued, consequent thereto, the first show cause notice was dropped. He would submit that compete adjudication was done by the State Authorities in respect of second show cause notice, against which, no appeal was filed. However, the Central Authority, without any jurisdiction, has issued show cause notice to the appellant on 16.01.2023. He would submit that once the adjudication is carried out, then, the Authorities, if not satisfied, are required to prefer an appeal under Section 107 of the Central Goods and Services Tax Act, 2017 (for short '**CGST Act, 2017**') and the Revisional powers are also vested with them under Section 108 of the aforesaid Act. He would submit that in the subject matter in hand, the Environment Cess, which was paid, was not against any service rendered, |

Web Copy
High Court of Chhattisgarh
Bilaspur

therefore, the levy of GST on Environmental Cess is without jurisdiction. He further submits that once the adjudication is carried out by the State authorities, Section 6 (2) (b) of the CGST Act, 2017 will put a bar on the Central Authorities and the jurisdiction is ousted. Therefore, show cause notice dated 16.01.2023 issued by the respondent No.2/Central Tax Authority is without jurisdiction. In support of his contention, learned counsel placed reliance on the judgment of Hon'ble Supreme Court in the matter of **Godrej Sara Lee Ltd. Vs. Excise and Taxation Officer-cum-Assessing Authority and Ors [2023 SCC OnLine SC 95].** He submits that learned Single Judge has failed to appreciate the aforesaid facts with regard to jurisdiction in the matter.

Per contra, learned counsel for respondents No.1 and 3/CGST opposes the aforesaid submission and submits that the second show cause notice was not adjudicated on merits, therefore, the Central Authority was constrained to issue third show cause notice dated 16.01.2023.

Having regard to the aforesaid submissions and *prima facie* after going through the record, we are of the view that the submission made by learned counsel for the appellant needs consideration and the issue as to whether the show cause notice issued by the Central Authority is without jurisdiction or not is to be deliberated and gone into and the same is to be decided on the touchstone of the legal principle and the appellant cannot be non-suited at this stage.

Web Copy
High Court of Chhattisgarh
Bilaspur

| | |
|---|---|
| | Accordingly, this appeal is **admitted** for hearing.<br><br>Since respondents No.1 and 2 are already represented, issue notice to respondents No.3 and 4, on appeal as well as on application for grant of stay (IA No.1), through ordinary as well as registered mode, as per rules.<br><br>In the meanwhile, the effect and operation of the show cause notice dated 16.01.2023 shall remain stayed, till the next date of hearing.<br><br>Sd/- **(Goutam Bhaduri) Judge**<br><br>Sd/- **(Deepak Kumar Tiwari) Judge** |

*Ajay*

Web Copy
High Court of Chhattisgarh
Bilaspur