(2013) 01 JH CK 0087

In the Jharkhand High Court

Case No : WP (T) No. 572 of 2013

Tata Sky Limited APPELLANT

Vs

State of Jharkhand and Others RESPONDENT

Date of Decision : 29-01-2013

Acts Referred:

Citation : (2013) 4 JLJR 337

Hon'ble Judges : Prakash Tatia, C.J;Jaya Roy, J

Bench : Division Bench

Advocate : Sumeet Gadodia, for the Appellant; Rajesh Shankar for the State, for the Respondent

Final Decision : Disposed Off

Judgement

1. Heard learned counsel for the parties. The petitioner has been served, with the garnishee order dated 15th January, 2013 attaching its bank account for a demand of Rs. 1,09,07,614/- only. The said demand is subject matter of revision before the Commissioner of Commercial Taxes, Ranchi.

2. Learned counsel for the petitioner submitted that the petitioner appeared before the original authority and submitted its reply and on the date fixed by the original authority the matter was not taken up. Subsequently ignoring the petitioner''s reply, the authority passed the ex parte order and created huge liability of the petitioner, which, according to the petitioner, has been done by passing an ante dated order, for which, according to the learned counsel for the petitioner, the fact reveals that the authority has purportedly passed the order on 14.2.2011 and demand notice has been served on 7.9.2012 after eighteen months and this is one of the important fact which certainly proves of passing the order ante dated.

3. However, the issue before us is only with respect to justification over passing the order of attaching the bank account of the petitioner, a running concern, for which revision is pending and, according to the learned counsel for the petitioner,

this writ petition may be disposed of with a direction to the revisional authority to decide, at least, the application for grant of interim relief, if the revision itself cannot be decided by the revisional authority. It is submitted that similar order has been passed in W.P.(T) No. 479 of 2013 Reported in Adhunik Alloys and Power Limited Vs. The State of Jharkhand and Others, disposed of on 24th January, 2013.

4. Learned counsel for the respondent vehemently submitted that there was no reason for the petitioner for not pursuing the revision petition and petitioner could have obtained the interim order from the said authority. It is also submitted that the revisional authority can decide the revision petition or stay petition. However, according to the learned counsel for the respondents, huge demand is against the writ petitioner and, therefore, garnishee order may not be quashed or stayed and petitioner may be given opportunity of hearing before the revisional authority.

5. We have considered the submissions of the parties and perused the facts of the case, which we have already referred above. We have also considered the order, which we have passed in the case of Adhunik Alloys & Power Ltd.

In view of the reasons which are similar to the case decided by us in W.P.(T) No. 479 of 2013 Reported in 2013 (3) 592 (Adhunik Alloys & Power Ltd. vs. State of Jharkhand and Ors.) disposed of on 24th January, 2013, we are of the considered opinion that this petition may be disposed of at this stage itself, with a direction to the revisional authority to decide the petitioner''s revision petition on or before 28th February, 2013 and if is not possible to decide the revision petition then, to pass appropriate order on the application for interim relief. After the order, if interim order is not granted or demand is not set aside, the Revenue authority will be free to take all coercive steps against the petitioner, however after expiry of the period for the revision before the revisional Authority. The garnishee order dated 15th January, 2013 (Annexure-7) is set aside.

The writ petition is disposed of accordingly.

