

Deputy Commissioner of Income Tax Vs M/s Central Coalfields Ltd

Court: Jharkhand High Court

Date of Decision: Feb. 12, 2025

Acts Referred: Income Tax Act, 1961 " Section 206C, 206C(1A), 260A
 Income Tax Rule, 1962 " Rule 37(C)

Hon'ble Judges: M.S. Ramachandra Rao, CJ; Deepak Roshan, J

Bench: Division Bench

Advocate: Kumar Vaibhav, Anurag Vijay, Biren Poddar, Piyush Poddar, Mahendra Kr. Choudhary, Manav Poddar

Final Decision: Dismissed

Judgement

Deepak Roshan, J.,

1. Heard learned counsel for the parties.

2. The instant appeal has been preferred by the Revenue under section 260-A of the Income-tax Act, 1961 (the "Act") challenging the Order

dated 23.01.2023 passed by the learned Income Tax Appellate Tribunal, Ranchi Bench in I.T.A No.38/Ran/2021.

3. The Revenue has raised the following substantial question of law as stated in paragraph 2 of the memo of appeal:

a. Whether on the facts and in law, the learned Tribunal has erred in ignoring the fact that it is duty and the responsibility of the assessee company to collect TCS

@ 1% under section 206C (1A) of the Act from all buyers on the sale of coal if it is not used for self consumption or for the purpose for which it was intended to be

used ?

b. Whether on the facts and in law, the learned Tribunal has erred in holding that the assessee company is not responsible for verification of Form 27C if it is duly

filed in and signed by the declarant ignoring the fact that Form 27C is widely misused and coal are utilized for trading purpose?

c. Whether on the facts and in law, the learned Tribunal has erred in deleting the entire demand of TCS by holding that the Revenue authorities have

wrongly treated the company as "assessee in default" under section 206C of the Act?

d. Whether on the facts and in law, the learned Tribunal has erred in ignoring the provisions that "if such buyer furnishes to the persons responsible for

collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner" mentioned in the sub-section 1A of the section

206C, meaning thereby that not only it should be furnished in prescribed form in duplicate, but also verified in prescribed manner. In such circumstances,

whether, M/s Central Coalfields Limited was required to verify the genuineness of the buyers who submitted Form 27C for they being the end user of the coal for

manufacturing, processing or producing articles or things or for the purpose of generation of power and not for trading purposes?

e. Whether on the facts and in law, in the light of the extant provisions prescribed under section 206C (1A) of the Income-tax Act, 1961 read with Rule 37C of the

Income Tax Rule, 1962, the Ld. ITAT has erred in shifting the entire onus to verify the genuineness of such buyers who submitted the Form 27C to the seller, M/s

Central Coalfields Limited, on the Income Tax Department?

f. Whether on the facts and in law, the learned ITAT has erred in ignoring the outcome of enquires made in the case of M/s Gautam Coal Works Pvt. Ltd.

establishing the fact that this buyer was not the end user of the coal purchased from M/s Central Coalfields Limited?

g. Whether on the facts and in law, the learned ITAT has erred in deleting the entire demand against the respondent assessee, M/s Central Coalfields Limited on

the technical ground that the entire demand was created for a single Assessment Year 2018-19, whereas in the order u/s 206C dated 10.11.2017, the TCS

demands as well as the interest thereof were calculated for each Assessment Year pertaining to A.Y. 2013-14 to A.Y. 2018-19 separately?

4. Though, the Revenue has proposed as many as nine substantial question of law in the instant appeal, the fulcrum of the Revenue's appeal is the

interpretation of section 206 C of the Act. As per the Revenue, under section 206C(1A) of the Act, the verification of the declaration to be furnished

by the purchaser is to be done by the seller (i.e. the assessee in the instant matter).

5. The relevant portion of the section 206 C of the Act reads as under:

“(1-A) “Notwithstanding anything contained in sub-section, no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer

furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the

effect that the goods referred to in column (2) of the aforesaid Table are to be utilized for the purposes of manufacturing, processing or producing articles or

things [or for the purposes of generation of power] and not for trading purposes.”

6. The relevant rule under the Income-tax Rules, 1962 (the “Rules”) for the purposes of section 206C of Act is Rule 37-C, relevant part of which

reads as:

“(1) “A declaration under sub-section (1A) of section 206C to the effect that any of the goods referred to in the Table in sub-section (1) of that section are to be

utilized for the purposes of manufacturing, processing or producing articles or things and not for trading purposes shall be in Form No. 27C and shall be verified

in the manner indicated therein.

7. The declarant in Form-27C is the purchaser and not the seller. The verification/ declaration part of Form-27C reads as

under:

"I/We do hereby declare that to the best of my/our knowledge and belief what is stated above is correct, complete

and is truly stated. I/We declare that the goods referred to in Column No.21 shall not be used for trading purposes. I/We also, declare that I/We am/are resident in

India within the meaning of section 6 of the Income-tax Act, 1961.

8. Quite clearly, the phrase "verified in the prescribed manner" in the scheme of the Act and the Rules, mean that the verification/ declaration is

to be made by the purchaser who is providing the signed/ verified form to the seller, and neither the Act, nor the Rules, in any manner lay down that

any verification whatsoever is to be done by the seller, as is being sought to be contended by the Revenue.

9. Further, the learned tribunal has rightly considered this entire issue and has also referred to the judgment of this Hon'ble Court in the case of

M/s Atibir Industries Co. Ltd., Giridih vs. The Central Coalfields Limited & Or. s[WPC No. 46/2018, order dt.03.12.2018] which is relevant for

the instant matter. The learned Tribunal has rightly held at paragraph-18 of the impugned order:

"We are, therefore, of the considered view that once Part I of Form 27C dully filled and signed by the declarant is received by the assessee and Part-II of

Form 27C is dully filled and signed by the seller is forwarded to the respective revenue authorities, within the prescribed time limit, then nothing more is required

to be done by the assessee and if any buyer is found to have given a false statement, then the assessee should not be held responsible for such act of the buyer.

10. Hence, on an overall consideration of the aspects as enunciated above, in our considered view, there is no question of law, much less any

substantial question of law involved in the instant appeal, as, what is being contended by the Revenue is clearly de hors what is laid down in section

206C(1A) of the Act read with Rule 37C of the Rules and Form 27C.

11. The Hon'ble Supreme Court in the case of CIT v. A.A. Estate (P) Ltd. (2019) 14 SCC 99] has held that if the High Court is of the view that

if an appeal does not involve any substantial question of law so as to attract the rigor of section 260-A of the Act for its admission, the appeal ought to

be dismissed in limine.

12. Hence, this appeal fails and is dismissed. No order as to costs.