

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (T) No. 1238 of 2021

M/s. Jai Maa Mangla Gauri Stone Works	Petitioner
	Versus	
Union of India & others	...	Respondents

CORAM: Hon'ble Mr. Justice Aparesh Kumar Singh
Hon'ble Mrs. Justice Anubha Rawat Choudhary

Through Video Conferencing

For the Appellant	: Mr. Sumeet Gadodia, Advocate
For the Respondent-CGST	: Mr. P.A.S. Pati, Advocate
For the Respondent-State	: Ms. Pinkey Tewari, A.C to A.G

02/13.04.2021 Learned counsel for the petitioner undertakes to remove the following surviving defects by Monday:

1. Numbering after para 3(viii) (page-7) may be verified.
2. Typed copy of Annexure-6 (page 118) may be verified with its true copy.

Office to place the file for inspection and removal of defects on requisition being made within this time.

Learned counsel for the petitioner submits that the instant challenge relates to levy of service tax for the period April, 2016 to June, 2017 on Royalty and District Mineral Fund. Petitioner is lessee of minor mineral i.e., stone in the district of Palamau.

Learned counsel for the petitioner submits that the matter may be placed along with W.P.(T) No. 3878 of 2020 and other analogous cases involving the same issues. It is submitted that interim order in terms of the order dated 2nd March, 2021 passed in W.P. (T) No. 3878 of 2020 and other analogous cases may be granted in the meantime.

Mr. P.A.S.Pati, learned counsel for CGST and Ms. Pinkey Tewari, A.C to learned A.G for the State pray for and are allowed 2 weeks' time to file counter affidavit. Petitioner, is so advised, may file reply thereto within one week thereafter.

Let this matter be tagged along with W.P.(T) No. 3878 of 2020 since the issues are common. Interim order in the same terms as order dated 2nd March, 2021 passed in W.P.(T) No. 3878 of 2020 and other analogous cases is also granted in favour of the petitioner. The relevant part of the order dated 2nd March, 2021 granting interim protection is extracted hereinbelow.

“14. Other High Courts have passed more or less similar interim orders relating to payment of service tax on royalty as noticed hereinabove. The High Court of Bombay at Goa vide interim order dated 22.08.2017, has stayed the imposition of service tax on royalty, but at the same time clarified that it would not come in the way of the revenue for conducting and completing its assessment and enquiry.

15. Having regard to the legal issues raised in respect of the levy of service tax on royalty in the respective writ petitions, we are inclined to pass similar interim order in respect thereof. While the revenue is not restrained from conducting and completing the assessment proceedings, until further orders recovery of service tax for grant of mining lease/royalty from the petitioners shall remain stayed. However, we are not satisfied at this stage that any case for granting interim protection is made out so far as the levy of CGST and/or JGST is concerned.”

List these cases accordingly.

(Aparesh Kumar Singh, J.)

(Anubha Rawat Choudhary, J.)