

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (T) No. 776 of 2021

M/s Damdami Stone and Morrum Deposit --- --- Petitioner
Versus
The Union of India and others --- --- Respondents

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

For the Petitioner: Mr. Sumeet Gadodia, Advocate
For the Resp.-CGST: Mr. Amit Kumar, Advocate
For the Resp.-State: Mr. Ashok Kr. Yadav, G.A-1

02 / 25.03.2021 Learned counsel for the petitioner submits that the instant matter may be placed along with W.P. (T) No. 3878/2020 and other analogous cases involving the same issue. It is submitted that interim order in terms of the order dated 02.03.2021 passed in W.P. (T) No. 3878/2020 and other analogous cases may be granted in the meantime. Learned counsel for the petitioner submits that notice bearing memo no. 1215 dated 09.11.2020 issued by the Respondent No. 2- The Superintendent, Central GST & Central Excise, Daltonganj Range, Daltonganj, Palamau is under challenge to the extent that the petitioner has been directed to make payment of Service Tax and GST under Reverse Charge Mechanism for the period April 2016 to March 2020 on the amount of royalty paid by the petitioner to the State of Jharkhand in respect of mining lease of Stone Boulders allotted to it in the district of Palamau.

3. Learned counsel for the CGST and State both are allowed three weeks' time to file counter affidavit. Petitioner, if so advised, may file reply thereto within one week thereafter.

4. 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 herein below.

“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

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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.”

5. List these cases accordingly.

(Aparesh Kumar Singh, J)

(Anubha Rawat Choudhary, J)

Ranjeet/