(2021) 04 JH CK 0075

In the Jharkhand High Court

Case No : Writ Petition(T) No. 1249 Of 2021

M/s Shreya Stonechips Crusher APPELLANT

Vs

Union of India And Ors RESPONDENT

Date of Decision : 08-04-2021

Acts Referred:

Citation : (2021) 04 JH CK 0075

Hon'ble Judges : Aparesh Kumar Singh, J;Anubha Rawat Choudhary, J

Bench : Division Bench

Advocate : Sumeet Gadodia, Ranjeet Kushwaha, Deepak Kr. Dubey, Amit Kumar

Judgement

Let W.P.(T) No. 1421 of 2021 also on Board today be tagged along with the instant writ petition as both raise common issues relating to levy of Service Tax upon royalty and District Mineral Fund Contribution. Petitioners in both the writ petitions are lessees of minor minerals in the district of Palamau.

Learned counsel for the petitioner submits that these matters 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.

Learned counsel for the CGST, Mr. Amit Kumar; learned A.A.G-II and G.A.-II for the State are allowed two weeks' time to file counter affidavit. Petitioner, if so advised, may file reply thereto before the matter is taken up.

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 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.