(2021) 11 OHC CK 0155

In the Orissa High Court

Case No : Writ Petition (C) No. 8493 Of 2021

Ojesh Pati — APPELLANT

Vs

State Of Odisha And Others — RESPONDENT

Date of Decision : 24-11-2021

Acts Referred:

Citation : (2021) 11 OHC CK 0155

Hon'ble Judges : Dr. S. Muralidhar, CJ;A.K. Mohapatra, J

Bench : Division Bench

Advocate : K. R. Choudhury, P. K. Muduli, Sunil Mishra

Final Decision : Dismissed

Judgement

1. There are five prayers in the present petition, which read as under:

"i. why the action and decision of the Opp.parties shall not be declared illegal, unconstitutional and violative of legal right of the petitioner on account of the Taxes being shared and borne by the petitioner on post enactment goods and Service Tax Act, 2017, thereby infringing the Goods and Service Tax, 2017.

ii. the Opp. parties shall not be directed to restitute the benefit of GST to the petitioner along with interest within a stipulated period in respect of work in which the estimate was prepared under the VAT law.

iii. the Office memorandum dated 10.12.2018 under Annexure-1 shall not be declared illegal, arbitrary, unreasonable and same shall not be quashed.

iv. why the letter under Annexure-2 shall not be declared illegal, arbitrary and same shall not be quashed.

v. why the Opp.party shall not be directed to prepare a fresh schedule of rates considering rapidly change of rate and price and calculate the differential amount of GST on the contract in which estimate was prepared under VAT."

2. At the outset, Ms. Roy Choudhury, learned counsel for the Petitioner, states

that she is not pressing the Prayer No. iv i.e., challenge to the letter under Annexure-2 since the Petitioner has already answered the said notice.

3. As regards remaining four prayers, it is pointed out at the outset by Mr. Muduli, learned Additional Government Advocate (AGA) for the State that all these prayers have been answered against the Petitioner by the judgment dated 7th June, 2021 of this Court W.P.(C) No.14924 of 2020 (Harish Chandra Majhi and State of Orissa and others). However, Ms. Roy Choudhury seeks to distinguish the said judgment on the ground that the points raised in the present petition were not considered therein. She has produced a chart seeking to draw a distinction between the Government of India notification and the impugned notification of the Government of Orissa, her submission is that the impugned notification is not consistent with the Government of India notification in many respects. She has also made a point about the embedded taxes which was subsumed in the value not being excluded while arriving at the base price for the purposes of levy of GST.

4. On perusal of the judgment delivered by this Court in Harish Chandra Majhi (supra), the Court finds that the Court has dealt with a large number of grounds which are more or less similar to the points urged in the present petition. The Court is not satisfied that any new ground has been made out requiring the Court to revisit its judgment in Harish Chandra Majhi (supra). Consequently, the Court is not inclined to interfere in the impugned petition. It is dismissed for the reasons already stated in Harish Chandra Majhi (supra).

5. The petition is accordingly dismissed but, with no order as to costs.

....

