

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14456 of 2020

M/s. Indian Farmers Fertilizers *Petitioner*
Co-operative Ltd.

Mr. P.K. Jena, Advocate

-versus-

Union of India and others *Opp. Parties*

Mr. R.S. Chimanka, Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE B. P. ROUTRAY

ORDER

06.04.2021

W.P.(C) Nos.14456 of 2020, 1684/2019, 6089/2019,
6909/2019, 7132/2019, 8283/2019 11750/2019, 12574/2019
and 28302/2020

Order No.

10. 1. This matter is taken up by video conferencing mode.
2. On the previous date, the Court had passed the following order:

“Heard Mr. P.K. Jena, learned counsel for the Petitioner and Mr. R.S. Chimanka, learned Standing Counsel for the Opposite Parties.

The Court has been shown the copy of the order passed by the Supreme Court of India on 6th January, 2021 in Special Leave Petition (Civil) No.13958 of 2020 (*Union of India vs. M/s. Mohit Minerals Pvt. Ltd.*) whereby notice has been issued. The said SLP has stated to be still pending consideration in the Supreme Court. Also it is noticed that no order staying the judgment of the Gujarat High Court in the case of M/s. Mohit

Minerals Pvt. Ltd. vs. Union of India has been granted.

As regards the prayer of some of the Petitioners before this Court that they should not be hereafter asked to pay GST on ocean freight. Mr. Chimanka, learned Standing Counsel for the Opposite Parties prays for some more time for instructions.

At his request, list on 6th April, 2021."

3. In W.P.(C) No.14456 of 2020, today Mr. Chimanka states that he still does not have any instructions as regards the Petitioners not being asked to pay IGST on ocean freight.

4. Learned counsel for the Petitioner in W.P.(C) No.1684 of 2019 has filed a memo drawing the attention to the Court to the fact that the Special Leave Petitions pending the Supreme Court are now listed for hearing on 20th April, 2021. It is also clear that there is no interim order passed by the Supreme Court staying operation of the judgment of the Gujarat High Court in the case of *M/s. Mohit Minerals Pvt. Ltd. v. Union of India* or the subsequent judgment in the case of *Bharat Oman Refineries Ltd. Pvt. Ltd. v. Union of India* reported in 2020 (41) GSTL 292 (Guj.).

5. In that view of the matter, it is clarified that while the question of the Petitioner being entitled to refund will await the final decision of the Supreme Court in the aforementioned SLPs, the Opposite Parties will not require the Petitioners before this Court hereafter to pay IGST on ocean freight until further orders.

6. These writ petitions are adjourned sine die with liberty to the parties to mention them for listing after disposal of the SLPs pending before the Supreme Court.

7. As the restrictions due to the COVID-19 situation are continuing, learned counsel for the parties may utilize a soft copy of this order available in the High Court's website or print out thereof at par with certified copy in the manner prescribed, vide Court's Notice No.4587, dated 25th March, 2020.



KC Bisoi