IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(T) No. 1065 of 2023

M/s. Maa Tara Stone Works --- --- Petitioner

Versus

1.The State of Jharkhand through its Secretary, Dept. of State Tax, Ranchi
2. Deputy Commissioner of State Tax, Sahibganj Circle, Sahibganj
3.Union of India through the Principal Commissioner, Central GST & Central Excise, Ranchi --- --- Respondents

With

W.P.(T) No. 1072 of 2023

M/s. Maa Gayatri Stone Works --- --- Petitioner

Versus

1.The State of Jharkhand through its Secretary, Dept. of State Tax, Ranchi
2. Deputy Commissioner of State Tax, Sahibganj Circle, Sahibganj
3.State Tax Officer, Sahibganj Circle, Sahibganj
4.Union of India through the Principal Commissioner, Central GST & Central Excise, Ranchi --- --- Respondents

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CORAM: HON'BLE MR. JUSTICE APARESH KUMAR SINGH
HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Ms. Amrita Sinha, Advocate
For the Resp.-State : M/s Ashok Kr. Yadav, Sr.S.C.-I, Rituraj, A.C to Sr.S.C.-I
For the Resp.-CGST : M/s PAS Pati, Ranjana Mukherjee, Advocate

02/02.03.2023 Let the both cases be tagged along with W.P (T) No. 432/2021 and analogous cases as they relate to common issues i.e. levy of GST on royalty upon the petitioners, who are lessee of minor minerals in the State of Jharkhand.

2. Learned counsel for the petitioners submits that this Court vide order dated 20.04.2022 passed in a batch of writ petitions led by W.P.(T) No. 432 of 2021 in the case of ***M/s Mandhan Minerals Corporation versus Union of India and others*** have been pleased to grant interim protection from levy of GST on royalty. It is submitted that the issues being common, similar interim protection may be granted to the petitioner pending final adjudication.

3. Learned counsel for the Respondent State of Jharkhand and CGST, both pray for and are allowed three weeks' time to file counter affidavit. One week time thereafter is allowed to the learned counsel for the petitioner to file rejoinder, if necessary.

4. Since this Court has granted interim protection on the levy of GST on mining lease / royalty to similarly situated petitioners vide order dated 20.04.2022 passed in W.P.(T) No. 432 of 2021 and other analogous cases, interim protection in the same manner is being granted to the petitioner herein. The operative portion at para 9 of the order dated

20.04.2022 is extracted herein below

> *: "9. Following the interim order passed by the Apex Court in the case of M/s Lakhwinder Singh (supra) dated 04.10.2021, this Court had been pleased to grant interim protection on levy of GST on mining lease / royalty/DMF. In the background of the legal position that royalty has been considered to be a tax or profit pendre and the issue is pending before the 9 Judge Constitution Bench, we are of the considered view that the petitioners have made out a case for interim protection. As such, there shall be stay of recovery of GST for grant of mining lease/ royalty/DMF from the petitioners till further orders. However, the Revenue is not restrained from conducting and completing the assessment proceedings. Since interim protection has been granted earlier in the case of Sunita Ganguly and others Vrs. Union of India & others vide order dated 02.03.2021 passed in W.P.(T) No. 3878 of 2020 and other analogous cases on levy of service tax on royalty/DMF, similar interim protection is being granted in W.P.(T) No. 897 of 2022, W.P.(T) No. 903 of 2022, W.P.(T) No. 926 of 2022, W.P.(T) No. 927 of 2022 where the levy of service tax on royalty/ DMF is under challenge. As such, interim order dated 02.03.2021 shall govern the case of said writ petitioners also."*

5. List both the cases along with W.P. (T) No. 432 of 2021 and analogous cases

(Aparesh Kumar Singh, J.)

(Deepak Roshan, J.)

A.Mohanty