

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(T) No. 1694 of 2021

M/s Sona Stone Chips --- --- Petitioner
Versus

Union of India & others --- --- Respondents

With

W.P.(T) No. 1741 of 2021

Maa Bindyawasini Stone --- --- Petitioner

Versus

Union of India & ors. --- --- Respondents

With

W.P.(T) No. 1742 of 2021

Grands Mining --- --- Petitioner

Versus

Union of India & ors. --- --- Respondents

With

W.P.(T) No. 1784 of 2021

Grands Mining --- --- Petitioner

Versus

The State of Jharkhand & ors. --- --- Respondents

With

W.P.(T) No. 1950 of 2021

M/s Amit Kumar Mandal --- --- Petitioner

Versus

The State of Jharkhand & ors. --- --- Respondents

With

W.P.(T) No. 1952 of 2021

Sagar Construction --- --- Petitioner

Versus

Union of India & ors. --- --- Respondents

With

W.P.(T) No. 1975 of 2021

M/s Asit Kumar Mandal --- --- Petitioner

Versus

Union of India & ors. --- --- Respondents

With

W.P.(T) No. 1505 of 2021

M/s Singh Stone Works --- --- Petitioner

Versus

Union of India & ors. --- --- Respondents

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CORAM: HON'BLE MR. JUSTICE APARESH KUMAR SINGH
HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY
Through Video Conferencing

For the Petitioners : Mr. Sumeet Gadodia, Advocate

For the Resp.-State : M/s Sachin Kumar, A.A.G-II, Deepak Kumar Dubey, A.C.
to A.A.G-II (in W.P.T.nos.1694/21,1741/21, 1784/21,1950/21
1952/21, 1975/21 and 1505/21

: Mr. Ashok Kumar Yadav, G.A.-I (in WPT No. 1742/21)

For the Resp.-CGST : Mr. P.A.S. Pati & Mr. Amit Kumar, Advocates

03/23.06.2021 These writ petitions raise common issues relating to levy of
service tax and GST upon royalty and district mineral fund contribution.
Accordingly, all the cases are tagged together.

Mr. Sumeet Gadodia, learned counsel for the petitioners in all these writ petitions undertakes to remove the following surviving defects in the respective writ petitions within a period of two weeks. Office to place the file for inspection and removal of defects on requisition being made.

W.P.(T) No. 1694 of 2021

Writ petitioner is a lessee of minor mineral in the District of Palamau. He has questioned the levy of service tax for the period 2016-2017 and GST for the period 2017-2020. The surviving defects are as follows:

1. Fresh or typed copy of page no. 87 may be filed.
2. Numbering of point should be (XII) at page no. 8. It may be verified.

W.P.(T) No. 1741 of 2021

Writ petitioner is a lessee of minor mineral in the District of Ranchi. He has questioned the levy of service tax for the period 2016-2017 and GST for the period 2017-2020. The surviving defects are as follows:

1. Numbering after para 1(iv) (page 5) and para 3 (xi) (page 8) may be corrected.

W.P.(T) No. 1742 of 2021

Writ petitioner is a lessee of minor mineral in the District of Pakur. He has questioned the levy of service tax for the period 2016-2017. The surviving defects are as follows:

1. In synopsis, date of Annexure-11,12 may be verified.
2. Annexure-14 has been mentioned in the synopsis. It may be verified.
3. Name of one of the learned Advocate who received the vakalatnama has not been mentioned on the vakalatnama (main body).

W.P.(T) No. 1784 of 2021

Writ petitioner is a lessee of minor mineral in the District of Pakur. He has questioned the levy of GST for the period 2017-2020. The surviving defects are as follows:

1. Sub para no. of para 3 may be verified or corrected.

W.P.(T) No. 1950 of 2021

Writ petitioner is a lessee of minor mineral in the District of Dhanbad. He has questioned the levy of GST for the period 2017-2020. The surviving defects are as follows:

1. Court fee of Rs.250/- is deficit.
2. Court fee of Rs. 5/- on affidavit and Rs.15/- on vakalatnama may be filed.
3. Advocate Welfare stamp of Rs.15/- on affidavit and vakalatnama may be filed.
4. Advocate association welfare stamp of Rs.5/- may be given on back of the vakalatnama.

W.P.(T) No. 1952 of 2021

Writ petitioner is a lessee of minor mineral in the District of Dhanbad. He has questioned the levy of service tax for the period 2016-2017 and GST for the period 2017-2020. The surviving defects are as follows:

1. Court fee of Rs.250/- is deficit.
2. Court fee of Rs. 5/- on affidavit and Rs.15/- on vakalatnama may be filed.
3. Advocate welfare stamp of Rs. 15/- on affidavit and vakalatnama may be filed.
4. Numbering after para 3(xi) (page 08) may be corrected.
5. GSTIN No. mentioned in para / sub para 9 may be verified / corrected as per Annexure 1.
6. Advocate association welfare fund of Rs.5/- on back of the vakalatnama may be given.
7. Page no. 62 is faint. Fresh/typed copy may be given.

W.P.(T) No. 1975 of 2021

Writ petitioner is a lessee of minor mineral in the District of Dhanbad. He has questioned the levy of service tax for the period 2016-2017 and GST for the period 2017-2020. The surviving defects are as follows:

1. CFs Rs. 15/- Advocate Welfare Stamp Rs.15/- and Advocate Welfare Association Stamp Rs.5/- is payable for vakalatnama.
2. Notice number as mentioned in index may be verified or corrected as per document at page 71.

3. In sub para 18 only two notices has been mentioned in spite of three in Annexure4. It may be verified.
4. CFs Rs.250/- is payable (undertaking has been filed)
5. Period mentioned in para 1(iii) and name of tax mentioned in para 1(vi) has not been mentioned in prayer portion.

W.P.(T) No. 1505 of 2021

Writ petitioner is a lessee of minor mineral in the District of Sahibganj. He has questioned the levy of service tax for the period 2016-2017 and GST for the period 2017-2020. There is no surviving defect in the instant writ petition.

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 02.03.2021 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. P.A.S. Pati and Mr. Amit Kumar in respective writ petitions and learned counsel for the State Mr. Sachin Kumar, A.A.G-II and Mr. Ashok Kumar Yadav, G.A.-I in the respective writ petitions are allowed three weeks' time to file counter affidavit. Petitioner, if so advised, may file reply thereto within one week thereafter.

Let all these matters be tagged along with W.P.(T) No. 3878 of 2020 since the issues are common. Interim order in the same terms as the order dated 02.03.2021 passed in W.P.(T) No. 3878 of 2020 and analogous cases is also granted in favour of the petitioners in the instant writ petitions. Relevant part of the order dated 02.03.2021 granting interim order 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.”

It is made clear that if the surviving defects are not removed within two weeks then interim order shall stand vacated.

Let the name of Mr. Sachin Kumar, learned A.A.G-II representing the State be reflected in the cause list in W.P.(T) No. 1741 of 2021, W.P.(T) No. 1950 of 2021, W.P.(T) No. 1952 of 2021, W.P.(T) No. 1975 of 2021 and W.P.(T) No. 1505 of 2021 in place of Mr. P.A.S. Pati, who is appearing for the CGST.

(Aparesh Kumar Singh, J.)

(Anubha Rawat Choudhary)

A.Mohanty