HIGH COURT OF TRIPURA
AGARTALA
WP(C)No.1288 of 2016

M/s Deep Industries

…….Petitioner(s)

Versus

The State of Tripura and 3 Others

…….Respondent(s)

For Petitioner(s)	:	None.
For Respondent(s)	:	Mr. D. Bhattacharya, G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH

Order

10.01.2023

Petitioner has prayed for the following reliefs :

> **"a) It be not declared that the transaction involved/envisaged in the contract agreement bearing No.9030007479 dated 12.09.2016 entered into by and between the petitioner and the proforma respondent No.4 cannot be construed as a transfer of right to use goods so as to render the transactions exigible to tax under the Tripura Value Added Tax Act, 2004; and**
>
> **b) An appropriate writ or order in the nature of mandamus be not issued commanding or directing the respondents authorities not to insist upon the petitioner to deposit tax under the Tripura Value Added Tax Act 2004 in respect of the contract agreement bearing No.9030007479 dated 12.09.2016 entered into by and between the petitioner and the proforma respondent No.4; and**
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> **c) As to why a writ in the nature of Mandamus be not issued directing the respondents authorities to cancel, recall or otherwise forbear from giving effect to the instruction bearing No.F.16051578083/Ch-V/2005/11834-36 dated 28th November, 2008 and memorandum No.F.1-7(6)-Tax/2002 dated 25/30th June 2005 and/or the provision of Tripura Value Added Tax act in respect of the contract agreement bearing No.9030007479 dated 12.09.2016 entered into by and between the petitioner and the proforma respondent No.4; and**

d) As to why a writ in the nature of Mandamus be no issued directing the proforma respondent No.4 not to deduct tax at source from the bills of the petitioner under the provisions of the Tripura Value Added Tax, 2004 in respect of contract agreement bearing No.9030007479 dated 12.09.2016; and

e) As to why a writ in the nature of Certiorari be not issued quashing and setting aside the impugned instruction bearing No. F.16051578083/Ch-V/2005/11834-36 dated 28th November, 2008 and memorandum No. F.1-7(6)-Tax/2002 dated 25/30th June 2005 at source from the bills of the petitioner under the provisions of the Tripura Value Added Tax, 2004 in respect of contract agreement bearing No.9030007479 dated 12.09.2016 entered into by and between the petitioner and the proforma respondent No.4;

And upon cause or causes being shown and after hearing the parties be pleased to make the rule absolute and/or pass such other orders as Your Lordships shall deem fit and proper and

During the pendency of the rule Your Lordships may be please to direct the respondent authorities and more particularly Respondent No.2, 3 and proforma Respondent No.4 not to insist upon the petitioner to deposit tax under the Tripura Value Added Tax 2004 tax at source from the bills of the petitioner under the provisions of the Tripura Value Added Tax, 2004 in respect of contract agreement bearing No.9030007479 dated 12.09.2016 entered into by and between the petitioner and the proforma respondent No.4 and further be pleased to stay/suspend the operation of the instruction bearing No.F.16051578083/Ch-V/2005/11834-36 dated 28th November, 2008 and memorandum No.F.1-7(6)-Tax/2002 dated 25/30th June 2005 tax at source from the bills of the petitioner under the provisions of the Tripura Value Added Tax, 2004 in respect of contract agreement bearing No.9030007479 dated 12.09.2016 and/or pass such other orders as Your Lordships shall deem fit and proper."

It is a fact that the SLP is pending before the Hon'ble Supreme Court of India but the present writ petition is of the year 2016 and as such, learned G.A. has produced an order of this Hon'ble High Court being WP(C)No.357 of 2014 dated 28.01.2019 where the Hon'ble Court has disposed of the petition on the following mutually agreed terms which reads as under :

"(a) The parties shall be bound by the decision rendered by the Apex court in the appeal assailing the judgment referred to supra.

(b) The resultant consequential action shall positively be taken by the parties, within a period of 3(three) months

from the date of such decision by the Apex court.

(c) All questions are left open.

(d) No action, adverse to that of the writ petitioner, shall be taken till such time the matter is decided by the Apex Court.

(e) Liberty reserved to the party/parties and more specifically to the petitioner, to approach the appropriate authorities and/or file a fresh petition before this Court, on the same and subsequent action, if so required and decided."

Accordingly, this petition is disposed of.

JUDGE **CHIEF JUSTICE (ACTING)**

HIGH COURT OF TRIPURA
सत्यमेव जयते

Sabyasachi B