Case No :CM Appl.(WP) 0000399/2014

Party Name : SMT NAMITA PAUL Vs O.N.G.C. & ORS

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA THE HONBLE MR. JUSTICE S.C.DAS

The basic question is whether the assessee is liable to pay Value Added Tax on the services provided by hiring of buses.

Mr. A.K. Bhowmik, learned senior counsel states that this issue is squarely covered by the judgment W.P.(C) No.369 of 2014 wherein this Court has held that VAT is not payable and such a person is only liable to pay service tax to the Central Government.

Mr. D.C. Nath, learned counsel for the State submits that the judgment passed by this Court in that case is under challenge before the Apex Court. He has also produced before us the order passed by the Apex Court in ***State of Tripura and anr. Vs. Madhusudhan Saha and ors*** wherein similar judgment passed by this Court has been stayed in so far as the refund of the tax amount is concerned.

Therefore, we direct that till further orders, the State is restrained from collecting VAT and the ONGC will not deduct VAT from the bills of the assessee. However, the assessee and the ONGC shall continue to pay the service tax as before.

The other questions shall be decided at the time of hearing.

C.M. application is disposed of.