

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20764 of 2010

***M/s. Kesoram Industries
Ltd.***

.....

Petitioner

Mr. M.K. Mishra, Advocate

Vs.

***Mahanadi Coal Field Ltd.
& Ors.***

.....

Opposite parties

Mr. N.C. Sahoo, Adv.

(O.P. 1)

Mr. P.S. Nayak, Adv.

(O.P.6)

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE V. NARASINGH

ORDER

16.02.2022

Order No.

8

This matter is taken up through hybrid mode.

2. Heard Mr. M.K. Mishra, learned Sr. Counsel appearing for the petitioner.

3. The petitioner has filed this writ petition seeking to quash the order dated 09.09.2010 under Annexure-21 and further seeks direction to opposite party no.1 to refund the excess sum of Rs.4,61,89,446.45 with interest.

4. Mr. M.K. Mishra, learned Sr. Counsel appearing for the petitioner contended that the petitioner carries on business under the name and

style of Birla Tyres, which is a capital intensive industry. Opposite party no.1 is a wholly owned subsidiary of opposite party no.5 and an undertaking of the Government of India, who floated the tender, pursuant to which the petitioner participated in the tender process. But, ultimately the same was not allotted in its favour. Therefore, the petitioner is entitled to get refund of the excess amount of Rs. 4,61,89,446.45. It is contended that opposite parties no.1 and 4 have filed their counter affidavit, wherein they have admitted the dues of the petitioner.

5. On perusal of the counter affidavit, it appears that nowhere in the counter affidavit they have admitted to refund the aforesaid amount. Therefore, this Court is not inclined to entertain this writ petition. However, liberty is granted to the petitioner to pursue the remedy before the appropriate forum, if it is so advised.

5. With the above observation, the writ petition stands disposed of.

Alok

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(DR. B.R. SARANGI)
JUDGE

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(V. NARASINGH)
JUDGE

