

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.16272 of 2017

*Neelachal Ispat Nigam Ltd. and
another*

.....

Petitioners

Mr.S.P.Sarangi , Adv

Vs.

Union of India and others

.....

Opposite Parties

*Mr. Debasis Tripathy, CGC
(O.P.1)*

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

20.05.2022

Order No.

03.

This matter is taken up through hybrid mode.

2. Heard learned counsel for the respective parties.

3. The prayer of the present writ petition reads as follows:

“It is therefore, prayed that the writ petition may kindly be allowed and by an appropriate writ, order or direction the Hon’ble Court may be pleased to:

(i) Set aside/quash the demand letters/notices dated 10.03.2016, 12.05.2016, 27.12.2016 and 22.04.2017 under Annexure-3 series, 4 & 6 issued by the opposite parties.

(ii) Declare that the petitioner No.1 Company is not liable to make contributions towards the DMF and NMET under the provisions of the MMDR Act, 1957 in respect of the ores supplied by the opposite party Nos.3 and 4.

(iii) issue any other writs or orders or directions as this Hon’ble Court may deem appropriate and proper.”

4. Whether in fact the statutory liability can be passed on by the opposite parties to the petitioners in terms of the contract in question and whether the opposite parties are liable therefore to refund the sum already recovered from the petitioners as a result

thereof, are questions that can be examined in civil proceedings and not in a writ petition under Article 226 of the Constitution. Leaving it open to the petitioners to work out its remedies in other appropriate proceedings in accordance with law, the writ petition is dismissed.

5. So far as applicability is concerned, the petitioners are permitted to move the application before the authority in view of the judgment of the apex Court in ***Federation of Indian Mineral Industries and others v. Union of India and another*** reported in ***(2017) 16 SCC 186***. If such application is filed, the authority shall apply his/her mind and shall pass an appropriate order taking into consideration the judgment of the apex Court in ***Federation of Indian Mineral Industries and others (supra)***.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Arun/Bichi