

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) Nos.3098 of 2008 & 14358 of 2013

M/s. Orissa Mining Corporation Ltd. ***Petitioner***

Mr. S.S. Ray, Advocate

-versus-

Union of India and others ***Opp. Parties***
Mr. P.K. Panda, Sr. Standing Counsel (GST)

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK**

**ORDER
21.02.2022**

Order No.

09. 1. These are two petitions by Orissa Mining Corporation Ltd. (OMC) questioning the demand raised on it by the Assistant Commissioner, Central Excise, Customs & Service Tax, Balasore regarding short payment of customs duty. In the first writ petition i.e. W.P.(C) No.3098 of 2008 the challenge is to a demand notice dated 15th /27th March, 2007 followed by another letter dated 27th November, 2007 informing the Petitioner that since its request for waiver on account of loss of chrome concentrate during transit was turned down, it should immediately pay duty amounting to Rs.1,02,06,478/- failing which, action would be taken under Section 142(1) (c)(II) of the Customs Act, 1962.
2. The said Writ Petition (C) No.3098 of 2008 was listed in this Court on 14th March, 2008. This Court granted a conditional stay of further recovery subject to the Petitioner paying a sum of Rs.40 lakhs to the Department.

3. The second Writ Petition (C) No.14358 of 2013 by OMC is to the demand raised by the subsequent notices dated 30th March, 2012, 9th May, 2012, 28th December, 2012 and 26th March, 2013 for customs duties on the same ground. In this the second writ petition on 25th March, 2014 a conditional stay was granted by this Court of further recovery subject to the OMC depositing a sum of Rs.56 lakhs within a month.

4. Mr. S. Ray, learned counsel for the OMC confirms that the aforementioned amounts have been paid. The stay orders have continued till date.

5. After making submissions for some time, Mr. Ray prays for withdrawal of the writ petitions with liberty to approach the Appellate Authority against the impugned demands and to pursue them in accordance with law.

6. In view of the said submission, the Court directs that if the Petitioner OMC files appeals not later than 4th April, 2022 against the aforementioned demand notices accompanied by an application for condonation of delay, explaining the delay on account of pendency of the present petitions, then such applications will be considered by the appellate authority in accordance with law subject to the compliance with the above direction. The stay orders passed by this Court in these two writ petitions will continue till such time the appellate authority passes appropriate orders in the applications for interim relief to be filed by the Petitioner with the appeals. It is clarified that this Court has not expressed any opinion on the merits of the case.

7. Both the writ petitions are disposed of in the above terms.
8. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

KC Bisoi

