

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 8586 of 2018

Bhusan Steel Ltd. and another

.....

Petitioners

Mr. S.P. Sarangi, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite Parties

Mr. S. Rath, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S. K. MISHRA

ORDER

05.08.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. S.P. Sarangi, learned Counsel appearing for the Petitioners and Mr. S. Rath, learned Additional Standing Counsel appearing for the State Opposite Parties.

3. The Petitioners have filed this Writ Petition to declare the third proviso to Rule-28(i) of the Orissa Minor Minerals Concession Rules, 2004 as ultra vires, since it envisages that a holder of quarry lease becomes liable for payment of royalty for any minor mineral removed or consumed, which is contrary to the substantive provisions of Rule-28(ii) of the Orissa Minor Minerals Concession Rules, 2004 where liability to pay royalty for minor minerals is only on removal of mineral from the leased area and not otherwise, and to quash the demands raised by Opposite Party No.2 vide Letter No.115 dated 10.03.2015, Letter No.649 dated 10.02.2016 and Letter No.967 dated 01.03.2016 under Annexures-9, 11 and 12 respectively to pay royalty amount of Rs.4,39,59,146.88 under the Orissa Minor Minerals Concession Rules, 2004 and further to direct the Opposite Parties to refund an amount of Rs.22,13,520/- already paid by Petitioner No.1-Company under protest on 19.12.2004 towards

alleged royalty.

4. Mr. S.P. Sarangi, learned Counsel appearing for the Petitioners contended that the Resolution Plan in respect of the Petitioner-Company, which has been approved by the National Company Law Tribunal (NCLT), has been confirmed by National Company Law Appellate Tribunal (NCLAT). Therefore, the Petitioner-Company is not liable to pay dues in terms of the Judgment of the apex Court in ***Ghanashyam Mishra and Sons Private Limited through the authorized signatory vs. Edelweiss Asset Reconstruction Company Limited through the Director and Others***, (2021) 9 SCC 657.

5. Mr. S. Rath, learned Additional Standing Counsel appearing for the State Opposite Parties contended that if the matter has been resolved by the appropriate forum, it is incumbent upon the Authority concerned to abide by the said order.

6. In view of such position, this Writ Petition stands disposed of with the direction to the Authority concerned to consider the case of the Petitioner-Company in the light of Judgment ***Ghanashyam Mishra and Sons Private Limited through the authorized signatory*** (supra), keeping in view the Resolution Plan approved by the National Company Law Tribunal (NCLT) and confirmed by the National Company Law Appellate Tribunal (NCLAT).

7. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE