

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 11960 of 2017

***M/s. Total Solutions Ltd.,
Jharsuguda***

.....

Petitioner

Mr. U.C. Mohanty, Advocate

Vs.

Union of India and others

.....

Opposite Parties

*Mr. P.K. Parhi, ASGI &
Mr. P.K. Muduli, Advocate (O.P.3)*

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE SANJAY KUMAR MISHRA

ORDER

22.07.2022

Order No.

04

This matter is taken up through hybrid mode.

2. By way of this writ petition, the Petitioner has challenged the notices issued under Annexures-4, 5, 6 series, 8 series and 10 by the Odisha Mining Corporation Limited, directing it to deposit the amount of District Mineral Foundation Contribution against Chrome ore lifted during different periods.

3. This Court, vide order dated 23.06.2017 while issuing notice to the Opposite Parties, had stayed the recovery pursuant to demand notices dated 28.03.2016 under Annexure-4, 22.06.2016 under Annexure-5, 05.11.2016 & letter dated 08.11.2016 under Annexure-6 series, 31.12.2016 and 08.03.2017 under Annexure-8 series and 02.05.2017 under Annexure-10 issued by opposite party no.3.

4. Now, the issue is concluded by the Hon'ble Supreme Court in the case of ***Federation of Indian Mineral Industries and others –v- Union of India and***

another, reported in (2017) 16 SCC 186, wherein the Hon'ble Supreme Court at paragraph-52.4 has observed as follows:

“52.4. Contributions to the DMF are required to be made by the holder of a mining lease or a prospecting licence-cum-mining lease in the case of minerals other than coal, lignite and sand for stowing with effect from 17-9-2015 when the rates were prescribed by the Central Government.”

5. In that view of the matter, since the issue is concluded, the DMF is required to be collected with effect from 17.09.2015 when the rates were prescribed by the Central Government. In that view of the matter, the collection prior to 17.09.2015 is contrary to the decision of the Hon'ble Supreme Court and is required to be either refunded or to be adjusted against future transaction.

6. The DMF collected prior to 17.09.2015 will be either refunded or adjusted as per request of the Petitioner to the authority.

7. We have not decided the dispute with regard to liability for payment of DMF either by the Petitioner or by Odisha Mining Corporation. It will be open for the Petitioner to agitate that issue before the competent Court. In that view of the matter, no further recovery will be made pertaining to the period prior to 17.09.2015.

8. This Writ Petition stands allowed to the aforesaid extent.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Alok/Padma

(S.K. MISHRA)
JUDGE

