

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No. 90 of 2024

M/s Sri Gopikrishna Infrastructure Pvt. Ltd. ... Petitioner
Versus
The State of Jharkhand & Ors. ... Respondents
with

W.P. (C) No. 60 of 2024

M/s Laser Power and Infra Private Ltd. ... Petitioner
Versus
The State of Jharkhand & Ors. ... Respondents
with

W.P. (C) No. 91 of 2024

M/s Sri Gopikrishna Infrastructure Pvt. Ltd. ... Petitioner
Versus
The State of Jharkhand & Ors. ... Respondents

CORAM: SRI ANANDA SEN, J.

For the Petitioners : Mr. M.S.Mittal, Sr. Advocate.
For the Respondent(s) : Mrs. Vandana Singh, Sr.S.C. III.
: Mr. Krishna Murari, Advocate.
Mr. Ashwini Bhushan, A.C. to Sr.S.C. III.
[In W.P. (C) Nos. 90 and 91 of 2024]
Mr. Ashok Kumar Yadav, Advocate.

Oral Order
07/Dated: 16.05.2024

The dispute in this writ application is as to whether the petitioner-contractor is liable to pay one per cent cess under the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act of 1996.

It is the case of the petitioners that since there are two separate contracts, (i) supply contract and (ii) construction contract, the cess cannot be levied on both the composite contracts.

Mr. M. S. Mittal, learned senior counsel appearing for the petitioners submits that his case is duly covered by the judgment passed by the Hon’ble Supreme Court in the case of ***Uttar Pradesh Power Transmission Corporation Ltd. & Anr.-Vs-CG Power and Industrial Solutions Ltd. & Anr.***, as reported in ***(2021) 6 SCC 15*** and also some orders passed by the Division Bench of this Court. He prays that the amount, which has already been deducted, be refunded.

Mr. Krishna Murari, learned counsel appearing for the respondent no. 6 submits that this writ application cannot be heard by

a Single Bench as the cess, which has been imposed, is, in the nature of tax and thus, the nomenclature would be “W.P. (T)” and not “W.P.(C)”, as per him, since W.P. (T) matters are heard by a Division Bench, the matters should be heard by the Division Bench.

Considering the submissions of the parties, it is an admitted fact that all writ petition taxation matters are heard by the Division Bench, as per the Jharkhand High Court Rules. Learned counsel for the petitioners are relying upon a judgment of the Hon’ble Supreme Court and the judgment of the Division Bench in support of his claim, as he is claiming that his case is covered by the aforesaid judgments.

Further, as per the office order, the contract matters are to be listed before a Division Bench. This dispute also arises out of a contract.

List these cases before an appropriate Division Bench after taking permission of Hon'ble the Acting Chief Justice.

(Ananda Sen, J.)