

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.6391 OF 2023

M/s.Maa Samaleswari Automobiles,
Ainthapali

Petitioner

Mr.S.Satapathy, Adv.

-versus-

The State of Odisha & ors.

.... Opposite Parties

Mr.S.P.Panda, AGA

CORAM:
JUSTICE BISWANATH RATH

Order
No.

ORDER
3.3.2023

1.

1. Heard learned counsel for the Parties.

2. The Writ Petition involves the following prayer :-

“Under the aforesaid facts and circumstances, this Hon’ble Court may kindly be pleased to admit the writ petition, issue rule Nisi, calling upon the opposite parties to show cause as to why the case of the petitioner shall not be allowed and if the opposite parties fail to submit show cause or show insufficient cause, then the writ petition of the petitioner be allowed.

And after hearing both the parties the impugned demand notice vide Annexure-3 issued to the petitioner by the opposite party no.3 to be quashed and appropriate direction may kindly be issued to the opposite parties Nos.2 and 3 to receive the holding tax as earlier paid by the petitioner in respect of his building bearing holding No.1377, Ward No.28 under Sambalpur Municipal Corporation...”

3. In course of hearing, there is no dispute through Annexure-1 that the earlier assessment assessing the Petitioner’s building by the Sambalpur Municipal Corporation as it was then operating raising the holding tax to Rs.1,19,858/- and the proposal for further

assessment is only made by way of notice dated 22.2.2023 enhancing the holding tax from Rs.1,19,858/- to Rs.3,12,609/- per annum.

4. Learned counsel for the Petitioner takes support of the decision of this Court in ***Kalyani Maternity Hospital Pvt. Ltd., Bhubaneswar vrs. Bhubaneswar Municipal Corporation*** reported in 2021 SCC Online Ori. 521, which is in the meantime already upheld by the Hon'ble Supreme Court in SLP(C) No.19268 of 2022 on 7.11.2022. At the same time, it is also disclosed, there has been objection to the impugned notice intending enhancement in the holding tax, vide Annexure-4, it alleged, the same is not being taken up for consideration.

5. Considering the objection at the instance of the Petitioner required to be considered by the Sambalpur Municipal Corporation involved herein, this Court remits the matter to the Sambalpur Municipal Corporation for adjudication of the objection of the Petitioner, vide Annexure-4 through the pleadings in the Writ Petition as well as the observation of this Court in Kalyani Maternity Hospital Pvt. Ltd. (supra) confirmed in SLP(C) No.19268 of 2022 on 7.11.2022 and also in the involvement of personal hearing of the Petitioner. Let the Petitioner provide a copy of this order, copy of the Writ Petition, a copy of the decision of this Court in Kalyani Maternity Hospital Pvt. Ltd. (supra) and the copy of the order of the

Hon'ble Supreme Court in SLP(C) No.19268 of 2022 disposed of on 7.11.2022 indicated herein above. This order will be worked out subject to however, the Petitioner deposits without prejudice to its rights and contentions at this level a sum of Rs.1,75,000/- (rupees one lakh seventy five thousand) at least within a period of two weeks hence. In the meantime, there may not be any coercive action against the Petitioner.

6. With the above order, the Writ Petition stands disposed of.

M.K.Rout



(Biswanath Rath)
Judge