

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 13540 of 2023

***Shalimar Chemical Works (P)
Ltd. WB***

.....

Petitioner

*Mr. Somnath Banerjee, Advocate along with
Mr. S.R. Pati, Advocate*

Vs.

***Commissioner of Commercial
Taxes and Goods and Service
Tax, Cuttack and another***

.....

Opposite Parties

Mr. Sunil Mishra, SC, CT & GST

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE M.S.RAMAN

ORDER

04.05.2023

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. Somnath Banerjee, learned counsel appearing for the petitioner and Mr. Sunil Mishra, learned Standing Counsel appearing for CT & GST.

3. The petitioner has filed this writ petition challenging the audit report dated 24.03.2023 under Annexure-4 and the subsequent notice issued under Section 65 (6) of the OGST Act, 2017 vide Annexure-5 by which the petitioner has been directed to discharge its statutory liabilities as per the provisions of the Act and the Rules made thereunder, failing which proceeding as deemed fit may be initiated against it under the provisions of the Act.

4. Mr. Banerjee learned counsel for the petitioner contended that against certain objections in the audit report, the petitioner is not liable to be charged with liability and, therefore, to the extent that where the petitioner is not liable to pay, the same should not be charged against the petitioner.

5. Mr. Sunil Mishra, learned Standing Counsel for the CT & GST

contended that the writ petition is totally premature one, inasmuch as on the basis of the audit report if any notice is issued to the petitioner in that case, the petitioner will be given the opportunity to say about the correctness of the objections in the audit report issued by the authority concerned. Since that stage has not come, therefore, the present writ petition cannot be sustained in the eye of law and is liable to be dismissed.

6. Having heard learned counsel for the parties and after going through the record, it appears that the petitioner has challenged the audit report under Annexure-4 contending that certain observations have been made in the audit report to which the petitioner is not liable to pay the amount. On the basis of such audit report, the notice under Section 65 (6) of the Act (Annexure-5) has been issued, where the petitioner has been directed to discharge its statutory liabilities as per the provisions of the Act and the Rules made thereunder, failing which proceedings as deemed fit may be initiated against it under the provisions of the Act. The petitioner has not come against any order passed by the authority concerned. In any case, if the petitioner shall have any grievance with regard to the audit report and the subsequent order in connection with notice under Annexure-5, then he may raise the objection before the assessing authority. The petitioner shall get a chance to have its say in the assessment proceeding. Thus, this writ petition at this stage is premature one, for which this Court is not inclined to entertain the same.

7. The writ petition stands disposed of accordingly.

(DR. B.R. SARANGI)
JUDGE

Arun

(M.S. RAMAN)
JUDGE