

IN THE HIGH COURT OF ORISSA

W.P.(C) No. 20431 of 2015

M/s. Shree Balaji Granite - Petitioner  
-vs-

State of Orissa & others - Opp. parties.

2 23.11.2015

Heard Mr. Ajit Kumar Roy, learned counsel for the petitioner and Mr. Kar, learned Standing Counsel for the Revenue.

In the present case the petitioner claiming to be the dealer in marble tiles submits that he has filed his return under Annexure-2 indicating his purchases of marble tiles and the amount of entry tax of Rs.1,04,020/- payable thereon. The petitioner has paid a sum of Rs.34,674/- which is 1/3<sup>rd</sup> of the entry tax due and for such deposit of 1/3<sup>rd</sup>, he placed reliance on the order dated 3.2.2010 passed by Hon'ble Apex Court in I.A. Nos.327-651 in petitions for Special Leave to Appeal (C) Nos. 14454-14778 of 2008 preferred by the State of Odisha against the judgment of this Hon'ble Court in the case of **Reliance Industries Ltd. v. State of Odisha** (2008) 16 VST 85 (ORI).

Mr. Kar, learned Standing Counsel for the Revenue submits that although the petitioner has filed a return indicating the turn over and the amount of return of the entry tax leviable thereon, he has only deposited 1/3<sup>rd</sup> of the said amount purportedly relying on the order of the Hon'ble Apex Court (supra). Mr. Kar submits that it would be an extremely difficult task for the Revenue to collect the balance amount of tax and interest, if any, from the petitioner, admittedly a trader, in the event the State succeeds in the challenge before the Hon'ble Apex Court in the aforesaid case.

Considering the situation that has arisen for our consideration in the present case and in view of the submission on behalf of the petitioner that way bills are being denied to the

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petitioner for the purpose of carrying on his business, we direct as follows :

(a) returns shall be regularly filed by the petitioner as is necessary under the Odisha Entry Tax Act and the petitioner shall go on depositing  $1/3^{\text{rd}}$  of the said amount as Entry Tax due with the Revenue authorities;

(b) for the balance  $2/3^{\text{rd}}$  amount of Entry Tax due, it shall deposit the said amount in any nationalized bank by way of a fixed deposit for a period of one year and the concerned Assessing Authority shall have lien over the said bank deposit. The said bank deposit has to be renewed annually until the final judgment of the Hon'ble Apex Court (supra) is rendered. It is made clear that the right to the said amount as deposited in the bank shall be dependent upon the final judgment of the Hon'ble Apex Court in the aforesaid case or any modifications made to the interim order dated 3.2.2010; and

(c) after filing of the returns, the petitioner shall provide to his Assessing Authority, a photo copy of the fixed deposit receipt, along with a copy of the letter addressed to the bank and duly authenticated by the bank noting the lien in favour of the Assessing Authority.

On compliance of the aforesaid directions, the authorities concerned shall issue necessary way bill in favour of the petitioner to carry on its business.

