WP(C) No. 369/2014
with WP(C) No. 126/2013
WP(C) No. 16/2013

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

01.07.2015

Mr. P. Ghiya, learned counsel, appears for the petitioners.

Dr. B.P.Todi, learned Addl. AG, assisted by Mr. K.P. Bhattacharjee, learned GA, represents the respondents.

We have heard learned counsel for the parties and perused the pleadings of writ petition. Learned counsel for the petitioner, Mr. P. Ghiya, read out his arguments as contained in the order dated 28.01.2015. In furtherance thereof today, he submitted that the State of Meghalaya is competent to charge Value Added Tax only on goods as defined in Section 2 (xvii) of the Meghalaya Value Added Tax Act, 2003 (for short 'the Act of 2003'). He also submitted that as a result of inclusion of works contract in Schedule IV to the Act, a higher rate of tax is to be charged which is in violation of Entry 54 of List II and Entry 92-A of List I of Schedule 7 of the Constitution. On the other hand, Dr. B.P. Todi, learned Addl. AG, submits that after the 46th Constitution Amendment which came into force w.e.f. 02.02.1983 definition of "tax on the sale or purchase of goods" under Clause 29-A of Article 366 of the Constitution, has been expanded so as to cover all kinds of transaction including work contract. Dr. B.P. Todi, learned Addl. AG, also submits that Meghalaya Value Added Tax Act came in force much after the notification of 46th Amendment in 2005. It is also a submission of Dr. B.P. Todi, learned Addl. AG, that there is nothing unusual in providing higher rate of Value Added Tax on 'works contract' which is only in line with the rate of tax being charged in almost all the states of North Eastern region including Sikkim, apart from some other states in the country. However, since the provisions governing the subject matter namely rate of Value Added Tax on 'works contract' in other states are not readily available; he could not produce the same. Besides, on being asked as to why when Schedule II, III & IV of the Act of 2003 are drawn under Section 5 (1) of Meghalaya Value Added Tax Act, 2005, a different rate of Value Added Tax has been prescribed by the State under Schedule IVA, Dr. B.P. Todi, learned Addl. AG, could not give any answer and thus prays for time to go through the file of Legislative Department so as to make the submission on the next date of hearing. Mr. P. Ghiya, learned counsel, also wants time to find out analogous provisions, if any, in other Taxing Statutes. Dr. B.P. Todi, learned Addl. AG, at this stage also submits that he would try to find out the Central Financial Policy because now Hon'ble the Apex Court in some of the judgments has held that even the Financial and Tariff Policy have also got the statutory force which ought to be noticed by the court in deciding such matters. Thus, on joint request, let this matter be listed on 10.08.2015.

JUDGE **CHIEF JUSTICE**

Sylvana

MC(WA) No. 45 of 2015

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR. JUSTICE S.R. SEN

01.07.2015

Mr K Paul, learned CGC, appearing for Union of India prays for two weeks' time to take steps towards service of notice issued on 17.06.2015. List on 15.07.2015.

JUDGE CHIEF JUSTICE

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WA No. 55 of 2014

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR. JUSTICE S.R. SEN

01.07.2015

Mr ND Chullai, learned senior GA, assisted by Mr R Gurung, learned GA, appears for the appellants.

Mr AH Hazarika, learned counsel, represents the respondent.

Learned senior GA Mr ND Chullai prays for and is granted two weeks' time to argue the matter. List on 15.07.2015.

JUDGE CHIEF JUSTICE

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PIL No. 1/2015

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

01.07.2015

Mr. N.D. Chullai, learned senior GA, assisted by Mr. Se. Sen Gupta, learned GA, represents the State-respondents.

Affidavit of compliance of Mrs. R. Lyngdoh, Deputy Commissioner, South West Khasi Hills District has been filed on 29.06.2015. Learned senior GA, states that the Superintendent of Police, South West Khasi Hills District, has also filed affidavit, but the same is not shown on record. As regard to affidavits of compliance from other districts we direct learned senior GA, to file the latest affidavit within a period of 4 (four) weeks.

List the matter on 12.08.2015.

JUDGE **CHIEF JUSTICE**

Sylvana

WA No. 42/2014

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH, CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

01.07.2015

Mr. S. Sen Gupta, learned GA, appears for the appellant.

Mr. B.K. Deb Roy, learned counsel, represents the respondents No. 1 - 39.

Mr. R. Deb Nath, learned CGC, is for the respondent – Union of India.

As per Office report dated 29.06.2015, Registry has informed that a reminder for appearance has been issued to Deputy Commissioner, Kamrup, Assam, by speed post, however, no one has entered appearance. Let a notice be issued to Chief Secretary, Assam to ensure the personal appearance of Deputy Commissioner on 01.08.2015

List the matter on 01.08.2015.

JUDGE **CHIEF JUSTICE**

Sylvana

ITA No. 1 of 2015

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR. JUSTICE S.R. SEN

01.07.2015

Ms N Hawelia, learned Standing counsel for the Income Tax Department is present in Court. So far there is no appearance on behalf of the respondent, wait for the service report. List on 23.07.2015.

JUDGE CHIEF JUSTICE

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