

Serial No. 8
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP (C) No. 344/2021

Date of Order: 07.12.2021

Jud Cements Ltd. & Anr. Vs. The Commissioner of Central
Goods, Service Tax & Central
Excise

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant (s) : Ms. R. Dutta, Adv.

For the Respondent (s) : Dr. N. Mozika, SC, CGST with
Ms. L. Jana, Adv.

- i) Whether approved for reporting in Law journals etc.: Yes/No
- ii) Whether approved for publication in press: Yes/No

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

At the behest of the Court, the parties have agreed in principle to the form of the order, but have left the modalities to be worked out by the Court.

2. The appellants accept the figures indicated in the letter dated December 3, 2021 issued by the Assistant Commissioner, CGST, Shillong, Division – II to the Assistant Commissioner (LAW), CGST, Shillong Commissionerate. However, the appellants submit that the figures indicated are subject to adjustment upon the conclusion of the appeals now pending for the period of 2017-18.

3. It is also submitted on behalf of the appellants that the input tax credit due to the appellant assessee has been overlooked on account of non-payment of the tax due. It is accepted on the part of the CGST authorities that upon the payment of the tax due, the assessee may be entitled to input tax credit. The

parties agree that such credit may be adjusted with the last installment of payments in terms of this order, subject to the assessee establishing its entitlement in accordance with law.

4. The total amount due as per the said letter of December 3, 2021 comes to a staggering Rs. 43,49,50,071/- and the appellants seek to pay off such amount, subject to the adjustment on account of the appeals and ITC, in 24 monthly installments.

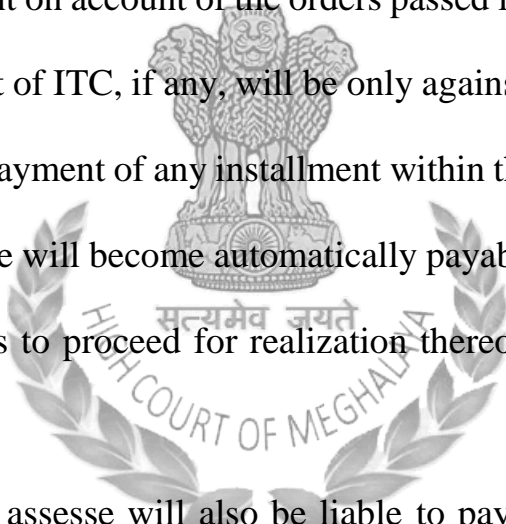
5. The entire amount of Rs. 43,49,50,071/- should be paid off by the appellants in 24 equal or nearly equal monthly installments beginning December 15, 2021 and payable by the 15th day of the 23 succeeding months.

6. The adjustment on account of the orders passed in the appeals referred to above and on account of ITC, if any, will be only against the last installment.

7. In default of payment of any installment within the time permitted, the balance amount then due will become automatically payable and it will be open to the CGST authorities to proceed for realization thereof in accordance with law.

8. The appellant assessee will also be liable to pay interest on reducing balance basis on the tax due component of the amount of Rs. 43,49,50,071/-, less any adjustment on account of appellate orders or ITC. Such amount will be calculated after the completion of payment of last installment in terms of this order and the entire interest component will be payable within 60 days of the last scheduled date for payment of installments in terms of this order.

9. It is made clear that the interest that is required to be paid by this order and after the completion of the installments payment in terms of this order will be calculated on reducing balance basis in respect of the tax due component and not in any respect of the penalty or interest already added into the figure of Rs. 43,49,50,071/-.



10. It is made clear that the appellant assessee will continue to pay the current GST dues without seeking any concession on account of the payment in terms of this order.

11. Immediately upon the first installment payment being made in terms of this order, the order cancelling the GST registration of the appellant assessee dated February 10, 2021 will stand annulled and the respondent authorities should immediately restore the assessee's access to the relevant portal and all other facilities as in any normal case. However, it will be open to the respondent authorities to cancel the registration within 15 days of any default in payment in terms of this order and also deny access to the portal within seven days of any such default, unless rectified before the relevant measure is taken.

12. Let a copy of the letter dated December 3, 2021 be retained in the records.

13. WP (C) No. 344 of 2021 is disposed of as above.

14. There will be no order as to costs.

(W. Diengdoh)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
07.12.2021
"Santosh, P.S."