

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 7398 OF 2008

TATA STEEL LTD.

APPELLANT(S)

VERSUS

THE STATE OF JHARKHAND AND ORS. & ORS.

RESPONDENT(S)

O R D E R

During the course of hearing of this appeal, the learned senior counsel agree that the reasoning given by the High Court in the impugned judgment on the *locus standi* of the appellant is not justified and correct. The appellant is a registered company, *albeit* for taxation purposes the units at Naomundi and Jamshedpur have been treated as separate assesseees under the Jharkhand Value Added Tax Act, 2005. Thus, the writ petition preferred by Tata Steel Ltd., which is a juristic person, could not have been dismissed as not maintainable when it had challenged the denial of input tax credit to the unit at Naomundi, in respect of the purchases made and utilised in the said unit.

The second issue examined and decided by the High Court relates to the interpretation of Clause (ix) to sub-section (8) of Section 18 of the Jharkhand Value Added Tax

Act, 2005. We find that the reasoning given by the High Court in paragraph 7 of the impugned order is rather cryptic and does not examine the issues and contentions which arise and should have been considered for interpreting the clause. Normally, we would have examined and interpreted the clause, but the learned senior counsel for the respondent today in the Court has referred to the Jharkhand Value Added Tax (Amendment) Ordinance, 2011, by which Clause (ix) of sub-section (8) of Section 18 was amended. It is also submitted that the amendment, in terms of notification No. S.O. 1 dated 7<sup>th</sup> May 2011, has been given retrospective effect w.e.f. 1<sup>st</sup> April 2006. The period involved in the present appeal are the financial years 2006-07 and 2007-08. These aspects have to be considered. Learned senior counsel for the appellant has stated that the appellant may consider challenging these amendments and notification, if required and necessary.

In view of the aforesaid, we allow the present appeal and set aside the impugned order interpreting Clause (ix) to sub-section (8) of Section 18 of the Jharkhand Value Added Tax Act, 2005, as it existed before the Jharkhand Value Added Tax (Amendment) Ordinance, 2011, with an order of remand to the High Court for a fresh decision. The respondent will be entitled to file an amended/additional counter affidavit relying on the amended clause. Equally, it will be open to the appellant

to file proceedings challenging the ordinance and the notification. It is clarified that we have not expressed any opinion on interpretation of Clause (ix) to subsection (8) of Section 18 of the Jharkhand Value Added Tax Act, 2005, pre and post the amendment or validity of the notification granting retrospective effect to the amendment.

Pending application(s), if any, shall stand disposed of.

..... .J.  
[SANJIV KHANNA]

..... .J.  
[ BELA M. TRIVEDI]

NEW DELHI;  
24TH FEBRUARY, 2022.

ITEM NO.102

COURT NO.14

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 7398/2008

TATA STEEL LTD.

Appellant(s)

VERSUS

THE STATE OF JHARKHAND AND ORS.

Respondent(s)

(IA No. 2/2014 - STAY APPLICATION)

Date : 24-02-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA  
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Appellant(s) Mr. Kavin Gulati, Sr. Adv.  
Ms. Nandini Gore, Adv.  
Ms. Natasha Sahrawat, Adv.  
Ms. Neha Khandelwal, Adv.  
Mr. Karanveer Singh Anand, Adv.  
Mrs. Manik Karanjawala, AOR

For Respondent(s) Mr. A Chowdhury, Sr. Adv.  
Mr. Kumar Anurag Singh, ASG  
Mr. Anando Mukherjee, AOR  
Mr. Shwetank Singh, Adv.  
Mr. Aniruddha Sethi, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed  
of.

(SONIA BHASIN)  
COURT MASTER (SH)

(Signed order is placed on the file)

(DIPTI KHURANA)  
COURT MASTER (NSH)