

GIB/OD/DEVI PRASAD/31.03.2021/HC-214

High Court Category : GST EXEMPTION

State : Odisha

Order No.: GIB/OD/DEVI PRASAD/31.03.2021/HC-214

Name of Entry :
DEVI PRASAD TRIPATHY

Date : 31-03-2021

Breif Issue :

FACTS OF THE CASE:

In this case Devi Prasad Tripathy ("**the Petitioner**") is an individual advocate practicing in the Hon'ble High Court of Odisha. A notice was issued calling upon the Petitioner to pay service tax/GST by the officials of the Principal Commissioner CGST and Central Excise ("**the Respondents**"). Further, the Petitioner has been insisted to submit the documentary evidence to prove its claim that the Petitioner is a practicing advocate and does not come under the provision of GST or service tax.

The Court vide its order dated March 31, 2021, directed the Respondent, to issue clear instructions to all the officers in the GST Commissionerates in Odisha not to issue notice demanding payment of service tax/GST to lawyers rendering legal services and falling in the negative list, as far as GST regime is concerned.

ISSUE OF THE CASE:

Whether the notices issued by the Respondents calling upon the Petitioner to pay service tax/GST are valid?

Decision of Advance Ruling Authority :

DECISION:

Noted that, after receiving the information from the Petitioner as being an individual practicing advocate, further proceedings were dropped. Observed that, certain other advocates too have received such notices. The Court expressed its concern and held that, practicing advocates should not have to face harassment on account of the Respondent issuing notices calling upon them to pay service tax/GST when they are exempted from doing so, and in the process also having to prove they are practicing advocates.

Further noted that, the Respondent has issued the instructions on April 9, 2021 and April 15,

2021 reiterating, *inter alia*, that the services provided by an advocate or a partnership firm of advocates providing legal services to any person other than a business entity and to a business entity with a turnover up to rupees ten lakhs in the preceding financial year are exempted from levy of service tax.

Quashed the notices issued by the Respondent.