

GAHC010007022019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/428/2019

M/S. BIKASH ENTERPRISES
A REGD. PARTNERSHIP FIRM HAVING ITS OFFICE AT BLOCK B SHIMA
PLAZA, 3RD FLOOR, ULUBARI CHARIALI, GUWAHATI, DIST. KAMRUP,
ASSAM AND REP. BY ITS DULY AUTHORIZED REPRESENTATIVE/PARTNER
SRI BIKASH JALAN.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE PRINCIPAL SECRETARY, GUWAHATI DEVELOPMENT DEPTT.,
2ND FLOOR, BLOCK D, GOVT. OF ASSAM, ASSAM SECRETARIAT (CIVIL),
DISPUR, PIN-781006.

2:THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY

REP. BY THE CHAIRMAN
3RD FLOOR
STATFED BUILDING
G.M.C.H. ROAD
BHANGAGARH
GUWAHATI-781005
ASSAM.

3:THE CHIEF EXECUTIVE OFFICER

GUWAHATI METROPOLITAN DEVELOPMENT DEPTT.
3RD FLOOR
STATFED BUILDING
G.M.C.H. ROAD
BHANGAGARH
GUWAHATI-781005
ASSAM.

4:THE CHIEF ACCOUNTS OFFICER

TUWAHATI METROPOLITAN DEVELOPMENT DEPTT.
3RD FLOOR
STATFED BUILDING
G.M.C.H. ROAD
BHANGAGARH
GUWAHATI-781005
ASSAM.

5:THE UNDER SECRETARY TO THE GOVT. OF ASSAM

SECRETARIAT ADMINISTRATION (ACCOUNTS) DEPTT.
DISPUR
GUWAHATI-781006.

6:LABOUR COMMISSIONER CUM MEMBER SECRETARY

ASSAM BUILDING AND OTHER CONSTRUCTION WORKERS WELFARE
BOARD
ASSAM
OFFICE OF THE LABOUR COMMISSIONER
ASSAM
GOPINATH NAGAR
GUWAHATI-781016

Advocate for the Petitioner : MR. N BARUAH

Advocate for the Respondent : SC, G M D A

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

22.07.2024

1. Heard Mr. N. Baruah, learned counsel for the petitioner. Also heard Mr. P. Nayak, learned Standing Counsel for the GMDA representing the respondent Nos. 2, 3 and 4 and Mr. K. Gogoi, learned Government Advocate, Assam representing the respondent Nos. 1, 5 and 6.

2. The petitioner was awarded with the work for "Drainage Project for Noonmati Basin, Construction of Segmental box culvert at Mathgharia under Railway Track, Guwahati for an amount for Rs. 2,01,25,620.00/- (Rupees Two Crores One Lakhs Twenty Five Thousand Six Hundred Twenty Only).
3. According to the petitioner, the petitioner executed the work and the payments were made and the final bill of the petitioner was released amounting to Rs. 67,92,823.00/- in the year 2017. However, according to the petitioner, an amount of Rs. 6,79,282.00/- was deducted by the respondent authorities as labour cess instead of Rs. 67,928.00/-.
4. Upon realizing the aforesaid aspect, the respondent authorities by a communication dated 28.04.2017 requested the respondent No. 6 i.e. the Labour Commissioner cum Member Secretary, Assam Building and Other Construction Workers Welfare Board, Assam to refund the amount of Rs. 6,11,354.00/-.
5. When such amount was not paid, the petitioner approached this Court by filing the present writ petition on 10.01.2019 seeking the aforesaid refund along with an interest of 18% till the return is made.
6. The communication dated 28.04.2017 is not under dispute. It is also not under dispute that instead of Rs. 67,928.00/-, an amount of Rs. 6,79,823.00/- was wrongly deducted from the final bill of the petitioner towards the payment of labour cess.
7. During the pendency of this writ petition, the excess amount deducted has been released to the petitioner in the year 2023. Accordingly, except the question of interest, nothing survives to the adjudicated in this present writ petition. In the given facts of the present case, in the opinion of this Court, a writ Court shall not be a proper forum to grant interest, more particularly to issue such a writ factual assertion shall required to be made.

8. Accordingly, the present writ petition stands closed with a liberty to the petitioner to approach appropriate forum seeking interest and/ or compensation for wrong, if any committed to him and in the event, such application is filed, same may be decided by the appropriate forum/Court in accordance with law.

JUDGE

Comparing Assistant