

GAHC010150772024



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

Case No. : WP(C)/3828/2024

M/S UCN CONSTRUCTION CO PVT LIMITED
A PRIVATE LIMITED COMPANY REGISTERED UNDER THE COMPANIES
ACT, 1956
HAVING ITS REGISTERED OFFICE AT R.K. PATH, ITACHALI, NAGAON,
ASSAM, 782001,
REPRESENTED BY ITS MANAGING DIRECTOR, PIYUSH KUMAR NAHATA,
AGED ABOUT 41 YEARS,
S/O- SHRI MANAK SHAND NAHATA,
RESIDENT OF R. K. PATH, ITACHALI, PIN- 782003.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY ITS COMMISSIONER AND SPECIAL SECRETARY,
PUBLIC WORKS DEPARTMENT,
GOVERNMENT OF ASSAM,
ASSAM SACHIVALAYA, DISPUR,
P.O.- ASSAM SACHIVALAYA,
DISTRICT- KAMRUP(M), ASSAM,
GUWAHATI- 781006.

2:THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT (ROADS)
CHANDMARI
GUWAHATI- 781003

DISTRICT- KAMRUP(M)
ASSAM.

3:THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT (BORDER ROADS AND NEC WORKS)
CHANDMARI

GUWAHATI- 781003

DISTRICT- KAMRUP(M)
ASSAM.

FORMERLY KNOWN AS PUBLIC WORKS DEPARTMENT

ARIASP AND RIDF
ASSAM

CHANDMARI
GUWAHATI- 781003.

4:THE EXECUTIVE ENGINEER
P.W.D. HAFLONG
ROAD DIVISION
P.O.- HAFLONG
PIN- 788819

DISTRICT- DIMA HASAO
ASSAM.

5:THE COMMISSIONER AND SECRETARY
FINANCE DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI- 781006.

6:THE TREASURY OFFICER
HAFLONG
P.O.- HAFLONG
DISTRICT- DIMA HASAO

ASSAM
PIN- 788819

Advocate for the Petitioner : MR B D DAS, MR J LOTHAN,MR. H R DAS,MRS R DEKA

Advocate for the Respondent : SC, PWD ROAD, SC, NCHAC,SC, FINANCE DEPTT.

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

12.11.2024

Heard Mr. B. Das, learned Senior Counsel assisted by Ms. R. Deka, learned

counsel for the petitioner. Also heard Ms. J. Gogoi, learned counsel for the respondent nos.4 & 6.

2. The petitioner's case is that pursuant to a Short Notice Inviting Tender dated 06.05.2014 issued by the respondent no.2, the petitioner was selected as the successful tenderer pertaining to one of the project works, namely "Improvement of Lanka Garampani (LG) Road (Portion from Ch.0.00M to Ch.14000.00M) under RIDF-XIX of NABARD bearing Package No. Dima-Has/RIDF-XIX/B-II/12".

3. The petitioner completed the project work on 02.07.2016 and after expiry of the defect liability period, the petitioner made a claim for release of the security deposit amount of Rs.79,99,111/-. The petitioner received an amount of Rs.25,05,040/-, out of the total security deposit amount leaving a balance amount of Rs.54,94,071/-. The petitioner's counsel submits that the said balance amount has not been paid to the petitioner till date.

4. Ms. J. Gogoi, learned counsel for the respondent nos.4 & 6, by relying upon the affidavit-in-opposition filed on behalf of the respondent no.4, submits that the Accountant General (Audit), Assam, PA-RIDF Audit Camp-Haflong, vide letter dated 03.08.2018, has deducted Rs.16.55 lakhs from the balance amount payable to the petitioner on account of Forest Royalty, Value Added Tax and Income Tax on Forest Royalty. She submits that the petitioner would now be liable to receive Rs.38,39,071.

5. I have heard the learned counsels for the parties.

6. Paragraph 9 & 10 of the affidavit-in-opposition filed by the respondent nos.4 are reproduced hereinbelow, as follows :

“9. That, with regards to the statements made in paragraph 5 and 6 of the writ petition. the deponent begs to state that the total outstanding Security Deposit Money claim of the petitioner was Rs.79,99,111/- (Rupees Seventy-nine lakhs ninety-nine thousand one hundred eleven) only. However, due to the onset of Covid pandemic, the release of the Security Deposit money could not be processed and an amount of Rs. 25,05,040/- (Rupees Twenty-five lakhs five thousand forty) only was released to the petitioner on 27.01.2023. The remaining Rs. 54,94,071/- (Rupees Fifty-four lakhs ninety-four thousand seven hundred eleven) only was, however, not drawn from the ceiling in any shape and was not deposited into the Head of Account by challan due to oversight. The Additional Chief Engineer PWD (R&B) Hills, Assam Haflong has placed a demand for Rs. 54,94,711 (Fifty four lakhs ninety four thousand seven hundred eleven only) before the Chief Engineer, PWD (Roads) Assam, Chandmari, Guwahati.

Copy of the letter dated 5/8/24 is annexed herewith and marked as Annexure 1.

10. That, with regards to the statements made in paragraph 7 of the writ petition the deponent begs to state that an audit objection was raised by Accountant General (Audit), Assam, PA-RIDF Audit camp-Haflong, vide letter no. POS No. 2 dated 03.08.2018 for Rs. 16.55 Lakhs pertaining to short deduction of Forest Royalty (Rs. 9.51 Lakhs), Value Added Tax (Rs. 5.94 Lakhs) and Income Tax on Forest Royalty (Rs. 1.10 Lakhs), the recovery of which was affected from security deposit money. As a result of this, the release of the remaining amount of Security Deposit money i.e. Rs. 54,94,071 could not be processed.”

7. The submissions made by the counsels for the parties and the averments made in the affidavit filed by the respondent no.4 clearly show that the respondents have admitted to the fact that they are liable to pay to the

petitioner, the security deposit amounting to Rs.38,39,071/-.

8. In view of the above, the respondents are directed to pay the said admitted amount to the petitioner, within a period of 3 (three) months from the date of receipt of a certified copy of this order.

9. Liberty is being given to the petitioner to approach appropriate forum for recovery of the unadmitted amount, if so advised.

10. Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant