IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19565 of 2018

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Sai Engicon and Construction Pvt. Ltd. the Company registered under Companies Act, 1956 having its registered office at R.T. Bhawan, Punaichak, Patna- 800023 through its Director, Sri Ritesh Ranjan Singh, Son of Late Manoranjan Singh, resident of RT Bhawan, PNB Campus, Punaichak, Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner, Department of Road Construction, Government of Bihar, Patna.
2. The Principal Secretary-cum-Commissioner, Department of Commercial Taxes, Government of Bihar, Patna.
3. The Engineer-in-Chief Cum Additional Commissioner Cum Special Secretary, Road Construction Department, Bihar.
4. The Executive Engineer, Road Construction Department, Vaishali Road Division, Hajipur.
5. The Executive Engineer, National Highway Division, Road Construction Department, Bihar.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr.
For the Respondent/s : Mr. Vikash Kumar -SC11

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date: 11-10-2018

The present writ petition has been filed for the following reliefs :

(a) For issuance of the writ in the nature of mandamus, directing and commanding upon the respondent authorities to reimburse the differential amount of GST on the gross amount receivable for execution of Work Contract after adjusting the 4% VAT being given by the Department-for the Agreement no. 20-CMBD-Year 2016-17 dated 22.02.2017- entered between the Executive Engineer, Vaishali Road Division, Hajipur and the petitioner company for execution of "Widening and Strengthening Work with Maintenance Work in KM '0' to '22.00' (Total 22.00 km length) of Chandpura-

Bhatauliya-Desri-Gajipur-Mahua road for the 2016-17- for cost of Rs. 39,87,57,047 which is 10% below of B.O.Q. rates- in term of clause 10C of the Standard Bidding Document, issued by the Road Construction Department, Bihar which mandates that the Contractor is entitled to be paid any such increase on account of change in rate of statutory law.

(b) *For issuance of the writ in the nature of mandamus, directing and commanding upon the respondent authorities to reimburse the differential amount of GST on the gross amount receivable for execution of work contract after adjusting the 4% VAT being given by the Department-For the Agreement no. 24-CMBD-year 2016-17 dated 25.02.2017- entered between the Executive Engineer, Vaishali, road division, Hajipur and the petitioner company for execution of Widening and Strengthening Work with Maintenance Work in KM '0' to 25.90 (Total 25.90 km length) of Handaha (Guri Chowk) Mangru Chowk-Bithauli chowk under NABARD scheme for the year 2016-17- for cost of Rs. 38,59,66,693.00- which is 10% below of B.O.Q rates- in term of clause 10C of Standard Bidding Document issued by the Road Construction Department, Bihar- which mandates that the Contractor is entitled to be paid any such increase on account of change in rate of statutory law*

(c) *For issuance of the writ in the nature of mandamus, directing and commanding upon the respondent authorities to reimburse the differential amount of GST on the gross amount receivable for execution of work contract after adjusting 4% VAT being given by the Department-for the agreement no. 14-SBD-Year 2017-18 dated 26.02.2018-entered between the Executive Engineer, NH Division Madhepura and the petitioner company for execution of 'Strenghtening from 194.01 km to 227.11 km of NH 327(E) in State of Bihar' for cost of Rs. 22,97,33,629.00-in terms of clause 10C of the Standard Bidding Document issued by the Road*

Construction Department, Bihar-which mandates that the Contractor is entitled to be paid any such increase on account of change in rate of statutory law.'

(d) *For issuance of a writ in the nature of mandamus directing the respondent authorities to make payment of 8% extra GST (12% GST-4% VAT-8% Extra GST) on the gross amount receivable/ received for execution of work agreement for different works bearing (a) agreement no. 20-CMBD-year 2016-17 dated 22.02.20147-entered between the Executive Engineer, Vaishali, Road Division, Hajipur and the petitioner company and (c) agreement no. 14-SBD-Year 2017-18 dated 26.02.2018-entered between the Executive Engineer, NH Division Madhepura and the petitioner company- in terms of clause 10C of the Standard Bidding Document issued by the road construction department, Bihar-which mandates that the Contractor is entitled to be paid any such increase on account of change in rate of statutory law.*

(e) *For issuance of the writ in the nature of mandamus, directing and commanding upon the respondent authorities to reimburse the difference of amount of GST on the gross amount receivable for the execution of Work Contract after adjusting the 4% VAT being given by the Department-in view of change in entire regime of Taxation System from GST to VAT-in term of Clause 10C of the Standard Bidding Document-which mandates that the Contractor is entitled to be paid any such increase on account of change in rate of Statutory Law."*

The learned counsel for the petitioner submits that it would be proper that the respondents should first adjudicate upon the aforesaid prayers of the petitioner and redress the grievances of the petitioner since the case in hand needs basic interpretation of the provisions of the Act.

In view of the submissions made by the learned counsel, as aforesaid, the petitioner is granted liberty to approach the respondent no. 1 by filing appropriate representation detailing his claims within a period of four weeks from today which shall be considered on merits and disposed of by a reasoned and speaking order within a period of eight weeks thereafter.

The writ petition stands disposed of.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.10.2018
Transmission Date	NA