

17.08.2022

WPA 3994 OF 2022

Saptarshi & Anr.

Vs.

The Deputy Commissioner of State Tax,
Bureau of Investigation, South Bengal HQ,
Kolkata & Ors.

Mr. Ankit Kanodia,
Mr. Himangshu Kr. Ray,
Ms. Megha Agarwal

... for the petitioner

Mr. Tapan Bhanja

... for Union of India in item No. 2

Mr. Anirban Ray, Id. G.P.,
Md. T.M. Siddiqui,
Mr. D. Ghosh,

... for the State

Heard learned Counsel appearing for the parties.

This writ petition has been filed for the relief by way of direction upon the respondents authority concerned to bear the additional tax liability for execution of subsisting Government contracts either awarded in the pre-GST regime or in the post GST regime without updating the Schedule of Rates (SOR) incorporating the applicable GST while preparing Bill of Quantities (BOQ) for inviting the bids. The petitioners have also prayed for relief of issuance of direction upon the respondents authority concerned to neutralize the impact of unforeseen additional tax

burden on Government contracts since the introduction of GST w.e.f. 1st July, 2017 for ongoing contract awarded before the said date and to update the State SOR incorporating applicable GST in lieu of inapplicable West Bengal VAT henceforth.

Considering the submissions of the parties this writ petition is disposed of by giving liberty to the petitioners to file appropriate representation in the aforesaid regard as referred in preceding paragraph of this order, before the Additional Chief Secretary, Finance Department, Government of West Bengal within four weeks from date. On receipt of such representation the Additional Chief Secretary, Finance Department shall take a final decision within four months from the date of receipt of such representation after consulting with all other relevant departments concerned.

Needless to mention that such representation shall be considered and final decision will be taken up by the Additional Secretary, after giving opportunity of hearing to the petitioners or their authorized representatives. Till the final decision is taken by the Additional Chief Secretary, no coercive action shall be taken against the petitioners. In case

of default in making representation within the time stipulated herein this order will not have any force.

It is also recorded that the Additional Chief Secretary, while taking decision on the representation to be filed by the petitioners shall act in accordance with law and pass a reasoned and speaking order on merit and after considering all the judgements of different High Courts upon which petitioners intend to rely.

With this observation and direction this writ petition being WPA 3994 of 2022 is disposed of.

(Md. Nizamuddin, J.)