04.08.2022
Sl no. 2 - 12
Ct no. 2
P.M.

WPA 20584 OF 2018
+
CAN 1 of 2020
With
WPA 10863 of 2019
With
WPA 190 of 2020
With
WPA 19158 of 2019
+
CAN 1 of 2020
+
CAN 2 of 2020
+
CAN 3 of 2020
+
CAN 4 of 2020
With
WPA 5678 of 2019
With
WPA 8814 of 2020
With
WPA 10157 of 2019
With
WPA 9027 of 2019
With
WPA 10433 of 2021
With
WPA 10434 of 2021
With
WPA 10436 of 2021

Subimal Kumar Maji & Ors.
VS.
The State of West Bengal & Ors.

Mr. Utpal Bose, Senior Adv.
Ms. Hashnunaha Chakraborty,
Ms. Neelina Chatterjee,
Mr. Suvodeep Chakraborty
… for the petitioner
Mr. Tapan Bhanja
… for Union of India in item No. 2

Mr. Anirban Ray, ld. G.P.,
Md. T.M. Siddiqui,
Mr. Soumitra Mukherjee,
Mr. D. Ghosh,

Mr. N. Chatterjee
... for the State

Mr. Rajasree Venket Kundalia,
Mr. Abhradip Maity
... for respondent No. 5 & 6 in item no. 10-12

Mr. K.K. Maiti,
Mr. Tapan Bhanja
... for CGST authority in item no. 10-12

Heard learned Counsel appearing for the parties.

These writ petitions have 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 these writ petitions are disposed of by giving liberty to the petitioners to file appropriate representations 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 representations 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 representations 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 representations 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 representations 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 theses observations and directions all these writ petitions and connected applications being WPA 20584 of 2018 with CAN 1 of 2020, WPA 10863 of 2019, WPA 190 of 2020, WPA 19158 of 2019 with CAN 1 of 2020, CAN 2 of 2020, CAN 3 of 2020, CAN 4 of 2020, WPA 5678 of 2019, WPA 8814 of 2020, WPA 10157 of 2019, WPA 9027 of 2019, WPA 10433 of 2021, WPA 10434 of 2021 and WPA 10436 of 2021 stand disposed of.

(Md. Nizamuddin, J.)