IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17092 of 2022

Mosharraf Hayat son of Murslin Ahmed resident of Ward No. 9, Indira Nagar, P.S.- Jogbani, Haripur, District- Araria, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Rural Works, Government of Bihar, Patna.
2. The Secretary, Department of Rural Works, Government of Bihar, Patna.
3. The Engineer in Chief, Department of Rural Works, Government of Bihar, Patna.
4. The Chief Engineer-2, Department of Rural Works, Government of Bihar, Patna.
5. The Superintending Engineer, Department of Rural Works, Works Circle, Kishunganj.
6. The Executive Engineer, Department of Rural Works, Works Division, Forbesganj, Araria.
7. The Divisional Accountant, Department of Rural Works, Works Division, Forbesganj, Araria.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Adv.
For the Respondent/s	:	Mr. Ajay Kumar, Adv.
		Mr. Anubhav Khowala, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 29-03-2023

The petitioner, by way of this writ petition, prays to direct the respondents to reimburse the difference amount of GST with respect to the work executed as per the terms of the agreement. The claim is made in terms of Clause 35 of the standard meeting document. The petitioner also has further prayed to pay interest on the entire amount of GST reimbursement to the petitioner alleging the same to be wrongfully withheld.

The respondents have filed their counter and pointed out that the claim has to be filed in a format as prescribed under the circular issued by the National Rural Infrastructure Development Agency dated 6th June 2018.

Learned counsel appearing for the respondents has invited attention of this Court to Clause VII of the said circular which reads as under:

> *"**vii**. The key issue is to estimate the value of subsumed tax carefully and as accurately as possible. For this purpose, an indicative Excel format is annexed for guidance. Model calculations are also attached herewith and states may workout similarly for all the ongoing works. Excel sheet indicates various project components which attract various types of taxes including Ed, CST, VAT/WCT and other taxes which were already in the contract price as per the original contract. The same format can be used to compile the information for each ongoing project,*

> *taking into consideration the GST input tax credit available for the project. The assessment of subsumed shall be submitted by the contractor along with copies of invoices and statement of input taxes duly certified by a Chartered Accountant. It is responsibility of the contractor to furnish correct details of the subsumed taxes."*

It is also submitted that the format of the excel sheet has been provided along with the circular and is available online but the petitioner did not claim the GST in terms of the said format and in absence of his claim in the proper format, the same could not be examined.

Faced with the said argument, learned counsel appearing for the petitioner prays to allow him to submit his claim in the necessary format as required by the respondents.

Having noticed aforesaid, the petitioner is directed to submit his claim in terms of the format as placed on record 'Annexure 1A' with the counter affidavit. It should be submitted physically as well as online.

If such a claim is submitted by the petitioner, the same shall be examined and scrutinized, whereafter necessary benefits, if any, shall be released by the respondents expeditiously. If the petitioner has any further grievance, he may raise the same before the appropriate appellate in accordance with law.

In view thereof, this writ petition stands disposed of.

It is made clear that the claim of interest would not be available to the petitioner, in view of the fact that he did not submit his claim in the correct format which was required as per law. However, if there is any delay henceforth, the interest amount shall be payable.

(Sanjeev Prakash Sharma, J)

Suraj/-
Item No. 41

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.04.2023
Transmission Date	NA