

19.09.2023

Sl no. 6

Ct no. 2

P.M.

WPA 21646 OF 2023

Nikunja Behari Paul.

- Vs -

The State of West Bengal & Ors.

Mr. Himangshu Kumar Ray,
Ms. Shiwani Shaw

... for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader
Md. T. M. Siddiqui,
Mr. T. Chakraborty,
Mr. S. Sanyal

... for the State

Affidavit-of-service filed in court be kept with
the record.

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
petitioner has 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 petitioner 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 petitioner or his authorized representatives. Till the final decision is taken by the Additional Chief Secretary, no coercive action shall be taken against the petitioner. 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 petitioner 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 21646 of 2023 is disposed of.

(Md. Nizamuddin, J.)