**Item No.4**
29.11.2023
Court. No. 2
*GB*

*CALCUTTA HIGH COURT*
*IN THE CIRCUIT BENCH AT JALPAIGURI*
*APPELLATE JURISDICTION*

WPA 2529 of 2023

Amjad Hossain
VS
The Senior Joint Commissioner of Revenue,
Appellate Authority, Jalpaiguri Circle & Ors.

*Mr. Debayan Goswami*
*... for the Petitioner.*
*Mr. Subir Kumar Saha,*
*Mr. Dilip Kumar Agarwal,*
*Ms. Rima Sarkar*
*... for the State.*

This writ petition has been filed for a direction upon the respondent no.13 to bare the additional tax liability for execution of works under the Pradhan Mantri Gram Sadak Yojna on the basis of the work order issued by the Executive Engineer, West Bengal State Rural Development Agency (WBSRDA), Cooch Behar-II Division, in the pre GST period.

According to the petitioner, the notice inviting tender was published prior to the coming into effect of the GST Act and the Schedule of Rates which were fixed, did not take into account the GST component payable by the contractor.

Under such circumstances, the petitioner is not in a position to pay the GST liability until the department for which the works were executed, revises the rates payable to the petitioner for execution of the works involved. Accordingly, the petitioner approached the Joint Secretary, West Bengal State Rural Development Agency, that is the respondent no.8, with his prayer for either neutralization of the impact on the unforeseen additional tax burden on government contracts or for revision of the rates upon taking into consideration the additional tax burden.

Mr. Agarwal, learned advocate for the State respondents submits that the tax liability of the petitioner under the GST Act, cannot be avoided by waiting for the government to revise the rates by taking into consideration the additional tax liability.

The relationship between the petitioner and the authority for which the petitioner had executed the work, would not be an impediment for calculation of the liability and demanding the same from the petitioner. According to Mr. Agarwal, the order of the original authority and the appellate authority, fixing the tax liability of the petitioner in accordance with law was justified and the same cannot be set aside.

The writ petition is disposed of with a liberty to the petitioner to approach the Joint Secretary, West Bengal State Rural Development Agency by filing a detailed representation within two weeks. Till such time the representation is considered, the authority shall not take any coercive measures on the basis of the orders passed by the GST authorities.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

On the outcome of the decision, the law will take its own course and the GST authority shall be entitled to proceed in accordance with the orders passed.

However, there shall be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

**(Shampa Sarkar, J.)**