

04.04.2024

Sl no. 26

Ct no. 2

P.M.

WPA 7792 OF 2024

Subir Kumar Sen

- Vs -

The State of West Bengal & Ors.

Mr. Himangshu Kumar Ray,
Mr. Subhasis Poddar,
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

Both parties are present.

Supplementary affidavit annexing the adjudication order dated 14th March, 2024 against which statutory appeal has already been filed after compliance of all the formalities and affidavit of service are kept on record.

Heard learned advocate 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 application 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 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 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 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 these observations and directions this writ petition, being WPA 7792 of 2024, stands disposed of

(Md. Nizamuddin, J.)