

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

46 03.9.2024
Sc Ct. no.2

WPA 1838 OF 2024

Shibesh Kumar Das

Vs.

Joint Commissioner, Commercial
Taxes & State GST, Cooch Behar
Charge & Ors.

Mr. Jagriti Mishra
Mr. Raj Kumar Mitra
Ms. Mrinmayee Das.

....For the Petitioner

Mr. Pretom Das
Ms. Rima Sarkar.

....For the Respondents
State

Mr. Debarshi Dhar

....For the Respondent
No.10

Affidavit-of-service, filed in Court today, is taken
on record.

Mr. Jagriti Mishra, learned counsel appears for
the petitioner.

Ms. Rima Sarkar, learned State counsel appears
for the respondent nos. 1 to 3.

The rest of the respondents are not represented.

The petitioner has carried out certain
infrastructural construction work under the **Pradhan
Mantri Gramin Sadak Yojna** at the behest of the
respondent nos. 4 to 6. At the relevant point of time
when the petitioner has executed the work, the GST was
charged @ **12%** on the total value of the Work Order.

Subsequently, the GST authority fixed the GST to be payable @**18%** of the total value of the Work Order. The petitioner has already paid the GST being **12%** of the total Work Order Value. Subsequently, the GST authority claims the additional **6%**. The respondent nos. 4 to 6 have already raised the issue before the **National Rural Infrastructure Development Agency (NRIDA)** and the issue is pending.

Meanwhile, the petitioner has been served with the impugned **Show Cause Notice** dated **August 9, 2024, Annexure-P7 at page 37** to the writ petition directing the petitioner to show cause as to why the GST shall not be collected @ **18%** of the total Work Order Value.

Mr. Jagriti Mishra, learned counsel appearing for the petitioner submits that, the respondent nos. 4 to 6 have already raised the issue before the **NRIDA**, which is the nodal agency. Referring to the documents at **page 48** onwards to this writ petition the petitioner submits that, the name of the petitioner is also there for consideration before the **NRIDA** and it is the responsibility of the respondent nos. 4 to 6 to pay the additional **6%** GST.

Ms. Rima Sarkar, learned State counsel appearing for the respondents submits that, since the **Show Cause Notice** has been issued, the petitioner shall participate in the hearing.

Considering the rival contentions of the parties and upon perusal of the materials on record to sub

serve justice the petitioner shall submit its composite reply to the said **Show Cause Notice** dated **August 9, 2024, Annexure-P7 at page 37** to the writ petition within a period of **two weeks** from date. The petitioner shall be at liberty to take all the points he wishes to urge before the authority by relying upon whatever records and documents he wishes to reply upon.

After receiving the said reply to show cause, the respondent no.3 upon issuing a prior hearing notice of at least **seven days** to the petitioner and the respondent no.6 and after giving them an opportunity of hearing shall decide the issue by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the respondent no.3 positively within a period of **six weeks** from the date of receiving the reply to show cause from the petitioner as directed above. The reasoned order then shall be communicated to the petitioner, positively within a further period of **two weeks** from the date of the said reasoned order to be passed by the respondent no.3.

It is made clear that, this Court has not gone into the merits of the writ petition and the petitioner shall be at liberty to urge whatever points he wishes to urge before the respondent no.3 on the issue.

No coercive step shall be taken in the meantime against the petitioner till **two weeks** after the reasoned order shall be communicated to the petitioner.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 1838 of 2024** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)