7
24.09.2025
sb
Ct.5.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 23343 of 2025

Sufal Halder
Versus
The Assistant Commissioner, West Bengal State Tax, Saltlake Charge & Ors.

Mr. Ankit Kanodia
Ms. Megha Agarwal
Mr. Piyush Khaitan
... For the petitioners.

Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
Mr. Debraj Sahu
... For the State.

1. Affidavit of service filed in Court is taken on record.

2. The petitioner is engaged in the business of providing contract services to Governmental authorities. The petitioner claims to have been awarded with a contract vide memo dated 26th February, 2016 for construction of additional service lane and access ramps to Santragachi Railway station by the Superintending Engineer, National Highway Circle No.1, PWD Road Directorate, being the respondent no.7. In addition thereto, the petitioner was also awarded another contract on 16th June, 2016 for construction of paddy storage godown at Narayangarh in the District of Paschim Medinipur, by the Superintending Engineer, South West Circle, PWD being the respondent no.8. According to the petitioner, prior to 1st April, 2017, the transactions

covered for the aforesaid contracts were chargeable to tax under the West Bengal Value Added Tax Act, 2003 for levy of Value Added Tax under the category of works contract. With effect from 1st July, 2017, the West Bengal Value Added Tax Act, 2003 was replaced and substituted by West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the "said Act'). From the payment certificate issued by the Executive Engineer, National Highway Division No.1, it would transpire that for the above works contract payments had been made both before and after the said Act come into force. Insofar as the second works contract, it would transpire that from the payment certificate issued by the Superintending Engineer, Paschim Medinipur, that the payments were made both prior as also after the said Act has come into force. In fact, in respect of the second contract, it would transpire that GST has been included with effect from 16th January, 2019 in respect of vouchers which are post 15th January, 2019 and thereafter.

3. Mr. Kanodia, learned advocate representing the petitioner would submit that the respondents were obliged to include GST component or in the alternative extend the benefit thereof to the petitioner which in this case admittedly has not been done. For reasons aforesaid a proceeding was initiated under Section 74 of the said Act, against the petitioner which culminated in the order dated 16th October, 2023 in respect of the tax period July, 2017 to March, 2018 where under the total tax

liability of the petitioner is Rs.1,48,62,235.08p. However, since in the interregnum, prior to passing of such order upon receipt of the notice in DRC-01A, the petitioner had made payment of the tax demand, the aforesaid amount had been given credit in the order dated 16th October, 2023 and the petitioner was only charged for balance interest out of which a part thereof to the extent of Rs. 20,00,000/- only has already been paid. According to the petitioner the balance outstanding interest has been sought to be enforced against the petitioner by issuing a notice in Form GST DRC-13 dated 28th August, 2025 and 4th September, 2025, from the amount payable to the petitioner concerning subsequent contracts executed by the petitioner. Mr. Kanodia would submit that though from time to time several representations have been made calling upon the State authorities to extend the benefit of the tax component (GST) along with consequential interest which was levied on the petitioner for no fault of his own, the representations made by the petitioner have remained unheard. In this context Mr. Kanodia has drawn the attention of this Court to the latest representation dated 19th September, 2025 appearing at page 103 of the writ petition.

4. Having heard the learned advocates appearing for the respective parties, I prima facie find that the petitioner had executed certain contracts for and on behalf of the Government. Payments under the aforesaid contracts appear to have been made both prior and post

coming into effect of the said Act. The State authorities have allowed post 2019 GST claim for which GST component had been included, unfortunately, for the previous period neither the GST has been included nor the petitioner has been afforded such benefit for which the petitioner claims to have been saddled with the liability. Without going into the aforesaid issue at this stage in my view, it would be prudent to direct the Additional Chief Secretary, Finance, Government of West Bengal to decide on the petitioner's representation. The petitioner shall also be at liberty to file a fresh representation supported with proper disclosure of documents. If such representation is made by the petitioner within a period of two weeks from date, the Additional Chief Secretary, Finance shall hear out and dispose of such representation in accordance with law as expeditiously as possible, preferably within a period of eight weeks from the date of filing of such representation, upon providing an opportunity of hearing to the petitioner.

5. Pending such consideration, the respondent nos. 9 and 10 shall not disburse the amount in furtherance to the notice in form DRC-13 to the respondent nos. 1 and 2 and shall jointly retain the amount to the extent, aggregating Rs.85,55,604. Such retained amount shall abide by the decision to be taken by the Additional Chief Secretary, Finance.

6. In the interregnum, however, the petitioner shall be at liberty to seek for release of the entire amount that may be lawfully payable including the aforesaid sum of Rs.85,55,604 payable to the petitioner by the respondent nos. 9 and 10 subject to the petitioner submitting a bank guarantee to the respondent nos. 1 and 2 for the aforesaid sum which must be valid at least for a period of six months.

7. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for be given to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)