

20.03.2023  
Court No. 19  
Item no.03  
CP

WPA No. 8698 of 2022

Sondeep Paul  
Vs.  
Union of India & Ors.

Mr. Debraj Sahu  
Mr. Subhajit Roy

...for the petitioner.

Ms. Purabi Saha (Das)

....for the Union of India.

Ms. Chaitali Bhattacharya  
Mr. Subhendu Roy Choudhury

.....for the State.

The writ petition has been filed alleging inaction of the West Bengal State Rural Development Agency (in short 'WBSRDA'), which is an agency under the department of Panchayat and Rural Development. The petitioner is granted liberty to incorporate the State of West Bengal through the Secretary, Department of Panchayat and Rural Development as a respondent.

Ms. Chaitali Bhattacharya learned senior government advocate accepts notice on behalf of the said respondent.

The writ petition has been filed for a direction upon the WBSRDA to pay the GST claim to the

petitioner as submitted on November 20, 2018, pursuant to the communication of the Ministry of Rural Development, Government of India, dated June 6, 2018. The petitioner submits that the calculation was as per the guidelines of the Union of India, but the WBSRDA has failed to apply the correct parameters in this regard which was forwarded by the Union of India on the basis of a calculation made under the Rajasthan VAT Law.

It is submitted by the learned advocate for the WBSRDA that the parameters laid down as per the calculation of the Rajasthan VAT Law forwarded by the Government of India along with the communication dated June 6, 2018, a format has been created by the WBSRDA in order to facilitate the refund of GST.

Learned advocate for the Union of India on the earlier occasion had submitted a report prepared by Nirmal Kumar Bhagat, Director (F&A), National Rural Infrastructure Development Agency. According to the Union of India, the impact of the GST calculation submitted by the petitioner was not in terms of the Memorandum dated June 6, 2018. The Union of India reiterated the procedure to be followed by the States and the Union Territories while processing the GST related claims/payments. The said paragraphs are quoted below for convenience:

“i. As per para A (viii) of NRIDA’s circular dated 06.06.2018. ‘Once the value of work sanctioned and GST taxes are arrived, employer may enter into supplemental agreement with revised agreement value....’ , It may be ensured that the SRRDA’s enters into supplemental agreement with revised agreement value before making any additional payment on account of GST.

ii. Para A (vii) of the circular stipulates that, ‘The assessment of subsumed tax shall be submitted by the contractor along with copies of invoices and statement of input taxes duly certified by the Chartered Accountant. It is responsibility of the contractor to furnish correct details of the subsumed taxes’. SRRDAs to ensure that this may be obtained from the contractor and duly verified by SRRDA/PIUs. It should be ensured that ITC for inputs purchased for PMGSY project should be applied/calculated in respect of such project, and not for any other business/project of the contractor.”

According to the Union of India, the calculation made by the petitioner did not factor in the subsumed taxes provided by paragraph A(vii) of the circular dated June 6, 2018. Therefore, the calculation of the petitioner was found to be erroneous by the Union of India. Further submission of the learned advocate for the Union of India was that the petitioner be directed to submit a fresh calculation with the exact additional liability by factoring in the subsumed taxes as detailed in paragraph A(vii) of the circular dated June 6, 2018.

Ms. Bhattacharya, learned senior government advocate, submits that on the parameters laid down by the communication dated June 6, 2018, issued by the Ministry of Rural Development, Government of

India and the calculation shown by the Union of India referring to the Rajasthan VAT Law, the WBSRDA had published its own format. If the petitioner applies in the said format as per the directions of the Union of India dated June 6, 2018, and furnishes necessary documents in this regard, the GST claim of the petitioner shall be processed.

Under such circumstances, the writ petition is disposed of with a direction upon the petitioner to appear before the respective Executive Engineers (PIU Heads) of WBSRDA, North 24 Parganas and Nadia Division, Krishnanagar, for compliance of necessary formalities. If such approach is made, the concerned authorities shall extend all cooperation and help to the petitioner so that the petitioner is able to submit fresh calculation in accordance with the directives of the Union of India which has been followed by the State of West Bengal.

As the claims were made at a transitional phase when GST had just been introduced, it is expected that some teething problems will be faced by the claimants. As such, the executive heads of the respective divisions are expected to familiarize the claimants with the procedure and the calculations. Once the petitioner submits the calculations with the necessary corrections and documents, the same shall

be processed by the WBSRDA as also by its counter part in the centre, for refund of the GST claims.

The entire exercise shall be completed by the concerned heads of NRIDA and WBSRDA, as the case may be, within a period of six months from the date of the petitioner complying with the necessary formalities.

Accordingly, the writ petition is disposed of.

However, there will 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.)**