



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR
WRIT PETITION (T) NO. 288 OF 2022

- CG Associates, a Partnership Firm having its Office at Mittal Niwas, H.No.1, Kadambri Nagar, Dhamdha Road Durg (C.G.). Through: its Power of Attorney Holder, Mr Ayush Mittal, aged about 32 years, S/o Ram Niwas, R/o Mittal Niwas, H.No.1, Kadambri Nagar, Dhamdha Road, Durg, District Durg, Chhattisgarh.

... Petitioner

versus

1. State of Chhattisgarh, through: Under Secretary, Water Resources Department, Mantralay, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District Raipur, Chhattisgarh.
2. Chief Engineer, Mahanadi Godawari Basin Water Resources Department, Raipur, District Raipur, Chhattisgarh.
3. Superintending Engineer, Water Resources Department, Shivnath Circle, District Durg, Chhattisgarh.
4. Executive Engineer, Water Resources Division, Bemetara, District Bemetara, Chhattisgarh.

... Respondents

For Petitioner : Mr. Siddharth Dubey, Advocate.
For Respondents : Mr. Ghanshyam Patel, Govt. Adv.

Hon'ble Shri Justice P. Sam Koshy
Order on Board
[05/01/2023]

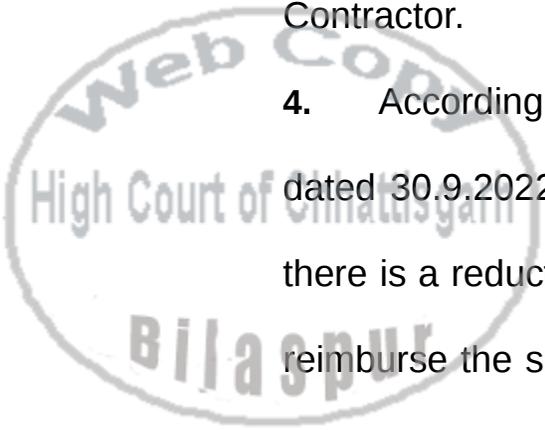
1. Grievance of the Petitioner seems to be the additional tax liability that the Petitioner has incurred towards the payment of GST to the Respondents.
2. Contention of learned Counsel for Petitioner is that when the Work Order dated 25.4.2022 that was issued to the Petitioner, the GST payable at that point of time was 12 percent, whereas subsequently from 18.7.2022 the rate has been enhanced from 12 percent to 18 percent and in the process the Petitioner has incurred certain additional liability towards the payment of GST.



3. Learned Counsel for Petitioner submits that the Department has itself on 30.9.2022 has amended the terms and conditions of the Contract, particularly Clause 2.17.1. The said Clause 2.17.1 stands amended to the effect that, if any other new tax or levy or cess is imposed by statute or any deviation in the existing royalty/tax/levy/GST after the last stipulated date for the receipt of the tender including extensions, if any, shall be treated as new tax and the Contractor there upon necessarily and properly paying such new taxes. The Engineer in Charge shall reimburse the amount of such new tax on submission of proof of such payments of tax by the Contractor.

4. According to learned Counsel for Petitioner, the said Order dated 30.9.2022 also has a Clause to the effect that, in the event if there is a reduction in the tax rate, the Contractor would also have to reimburse the said amount to the State Government. Therefore, now that there is a increase in the tax liability, it would be the same principle that would be applicable upon the Respondents also and they are duty bound to reimburse the Petitioner to the extent of the additional tax liability suffered by the Petitioner in the course of the enhancement of the rate of GST.

5. Today, when the matter is taken up for hearing, learned Counsel for Petitioner submits that the Petitioner Firm has meanwhile filed a detailed representation before the Respondents on 6.11.2022 and the Respondent Authorities are yet to take a decision on the same.

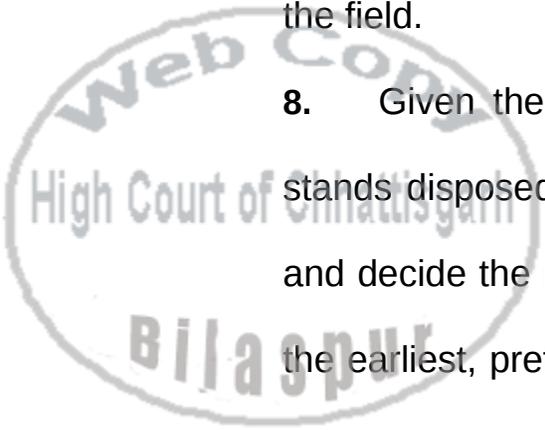




6. Learned Counsel for Petitioner further submits that as of now the present Writ Petition may be disposed of directing the Respondent Authorities to take a decision on the representation that the Petitioner Firm has made in the light of the Order issued by the Water Resources Department itself on 30.9.2022 in this regard wherein Clause 2.17.1 stands amended.

7. The limited prayer of the Petitioner is not opposed by the learned State Counsel. However, the learned State Counsel submits that the representation would have to be decided strictly in accordance with the provisions of Law and the Contract, governing the field.

8. Given the said facts, the the present Writ Petition as of now stands disposed of, directing the Respondent Authorities to consider and decide the representation filed by the Petitioner on 6.11.2022, at the earliest, preferably within a period of 90 days. While deciding the representation, the Respondent Authorities shall take into consideration the Order dated 30.9.2022 whereby Clause 2.17.1 stood amended. In addition, the Petitioner would also be at liberty to make a fresh representation along with the supporting documents showing the proof of the additional tax liability incurred by the Petitioner which would facilitate the Respondents in taking a decision. Subject to the representation being decided favourably, the Respondents shall also take steps for reimbursing the amount forthwith.





9. With aforesaid directions, the Writ Petition stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE

sharad

