

Court No. - 29

Case :- WRIT - C No. - 19178 of 2024

Petitioner :- Rajendra Kumar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Bidhan Chandra Rai

Counsel for Respondent :- C.S.C.,Ishan Deo Giri,Krishna Agarawal

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Bidhan Chandra Rai, learned counsel for the petitioner, Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State-respondents, Sri Ishan Deo Giri, learned counsel for the respondent No.2 & 3 - U.P. Expressways Industrial Development Authority.

2. The present writ petition is preferred praying inter alia with the following relief:

"i. issue a writ, order or direction in the nature of mandamus directing the Respondent 2 to consider the representation issued by the petitioner to the respondent 2 and direct the respondent 2 to pass appropriate order and consequently direct the respondent 2 to remit the additional GST component to the petitioner within a reasonable specified period, as may be deemed fit and proper by the Hon'ble High Court;"

3. It appears from the record that the petitioner, a registered firm under the GST regime engaged primarily in civil construction for government departments, participated in a bid floated by U.P. Expressways Industrial Development Authority (UPEIDA) on 17.02.2021 for constructing a four-lane road on Palwal-Tappal-Aligarh Road in Village Andala, Tehsil Khair, District Aligarh. UPEIDA accepted the petitioner's bid for Rs.8,89,95,257/-, requiring performance security within five days and completion by 09.12.2021. A contract was signed on 10.06.2021, specifying that the quoted price included all duties and taxes except GST. Despite an extension to 30.06.2022 and a contract value revision to Rs.11,86,42,129/-, final payment including 12% GST was approved on 30.11.2022. With GST rates increasing from 12% to 18% effective from 03.08.2022, the petitioner sought the additional 6% GST from UPEIDA, which was denied on 20.03.2023. Learned counsel for the petitioner submits that UPEIDA's actions, by not paying the revised GST rate, are arbitrary and illegal, necessitating interference by this court. In this backdrop, learned counsel for the petitioner states that the petitioner has already made a detailed representation before respondent No. 4 but till date, the representation of the petitioner has not been addressed by the authority.

4. Sri Ishan Deo Giri, learned counsel for respondents No. 2 and 3 - U.P. Expressways Industrial Development Authority, states that he has no objection if

the court relegates the matter to respondent No. 4 - Joint Commissioner, O/o the Commissioner CGST and Central Excise, to examine the matter as per law.

5. Considering the factual circumstances, without entering into the merit of the case and with the consent of the parties, **we dispose of the writ petition** with an observation that if the petitioner moves a fresh representation within a week's time before respondent No. 4 - Joint Commissioner, O/o the Commissioner CGST and Central Excise, we hope and trust that the same will be considered strictly in accordance with the law within three weeks from the date of production of a certified copy of this order.

Order Date :- 3.7.2024

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