(2014) 01 TP CK 0035

In the Tripura High Court

Case No : W.P. (C) No. 73 of 2012

M/s. K.K. Enterprise,a proprietorship concern of Sri Kalyan Kalita represented by his duly constituted Attorney,Sri Tapan Kr. Das VsThe State of Tripura,represented by the Commissioner and Secretary to the Department of Revenue,Government of Tripura and Others

Date of Decision : 07-01-2014

Acts Referred:

Citation : (2014) 01 TP CK 0035

Hon'ble Judges : Deepak Gupta, C.J;S. Talapatra, J

Bench : Division Bench

Advocate : A.K. Saraf, Sr. Advocate and Mr. T.D. Majumder, G.A, Advocate for the Respondent

Judgement

Deepak Gupta, C.J.—By means of this writ petition, the petitioner has prayed for grant of the following amongst other relief''s:

i. ISSUE RULE, calling upon the respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued, calling for the records, lying with them, and for quashing/setting aside the impugned Orders of deduction of Value Added Tax at source at a flat rate, from each of the gross bills raised by the petitioner (Annexure-P2 Colly supra), in connection with the Works Contract (Annexure-P1 supra), the impugned Notification dated 21.09.2011 (Annexure-P4 supra), authorizing collection of Value Added Tax, at a flat rate, from the gross bills of a contractor, in matters of Works Contract, and the impugned Memorandum dated 16.11.2011 (Annexure-P5 supra), authorizing collection of Value Added Tax, at the enhanced flat rate of 6%, from the gross bills of a contractor, in matters of Works Contract;

ii. ISSUE RULE, calling upon the respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, for mandating/directing the respondents, for revoking/rescinding the impugned Orders of deduction of Value Added Tax at source at the flat rate, from each of the gross bills raised by the petitioner (Annexure-P2 Colly supra), in connection with the Works Contract (Annexure-P1 supra), the impugned Notification dated 21.09.2011 (Annexure-P4 supra), authorizing collection of Value Added Tax, at a flat rate, from the gross bills of a contractor, in matters of Works Contract, and the impugned Memorandum dated 16.11.2011 (Annexure-P5 supra), authorizing collection of Value Added Tax, at the enhanced flat rate of 6%, from the gross bills of a contractor, in matters of Works Contract;

iii. ISSUE RULE, calling upon the respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, for directing the respondents, to declare that the impugned Orders of deduction of Value Added Tax at source at the flat rate, from each of the gross bills, raised by the petitioner (Annexure-P2 Colly supra), in connection with the Works Contract (Annexure-P1 supra), the impugned Notification dated 21.09.2011 (Annexure-P4 supra), authorizing collection of Value Added Tax, at a flat rate, from the gross bills of a contractor, in matters of Works Contract, and the impugned Memorandum dated 16.11.2011 (Annexure-P5 supra), authorizing collection of Value Added Tax, at the enhanced flat rate of 6%, from the gross bills of a contractor, in matters of Works Contract, are illegal, unlawful and unconstitutional;

iv. ISSUE RULE, calling upon the respondents and each one of them, to show cause as to why a Writ of Prohibition and/or in the nature thereof, shall not be passed, restraining/prohibiting them, from acting in any manner, in furtherance of the impugned Notification dated 21.09.2011 (Annexure-P4 supra), authorizing collection of Value Added Tax, at a flat rate, from the gross bills of a contractor, in matters of Works Contract, and the impugned Memorandum dated 16.11.2011 (Annexure-P5 supra), authorizing collection of Value Added Tax, at the enhanced flat rate of 6%, from the gross bills of a contractor, in matters of Works Contract, insofar as it relates to the Works Contract (Annexure-P1 supra), awarded to the petitioner;

2. The issues raised in this petition are squarely covered by the Division Bench judgment of this Court in Biplab Kumar Ghosh Vs. Union of India and Others and the same judgment shall apply with all force to this case also.

The present writ petition is, therefore, disposed of in terms of the aforesaid judgment.

