

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

OWP No. 303/2017

Tsering Angchok
Tsering Angchok;
S/o Sh. Karguit Chospel
R/o Stok, Leh-Ladakh
Proprietor M/s Tsering Angchok,
Stok, Leh-Ladakh

.... Petitioner/Appellant(s)

Through:- Mr. Rahul Pant, Sr. Advocate with
Mr. Sahil Mushtaq, Advocate

V/s

Union of India & six others

.....Respondent(s)

Through:- Mr. Sandeep Gupta, CGSC

CORAM : HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER

05.06.2024

01. Petitioner seeks a direction to the respondents to refund to the petitioner the Service Tax deducted illegally from the Final Contract Bill No.CACE(P) Vijayak/01/13-14 to the tune of Rs.26,47,315.00 (rupees twenty six lac forty seven thousand three hundred and fifteen only) contrary to the terms and conditions of the agreement. He also seeks a direction to the respondents to refund to the petitioner the aforesaid amount along with interest at the rate of 18% per annum from the date of completion of the project i.e. 15th November, 2014 and further seeks a direction upon the respondents to meet the additional liability of Service Tax on account of increase of the same w.e.f. April 2014 from existing 10.5% to 12.6% by paying the same to the Department of Commercial

Taxes, J&K Government in accordance with the terms and conditions of the Agreement.

02. Mr. Sandeep Gupta, learned counsel for the respondents submits that an amount of Rs. 26,47,315.00 was wrongly/inadvertently deducted by the respondents and has been deposited with the Excise Department. It is admitted by the respondents' counsel that the petitioner was not liable for debt of the said amount but the respondents deducted it and deposited with the Taxation Department, to whom they are approaching for refund of the same but till date, the refund has not been made.

03. The said amount has been deducted way back in November, 2014 as it has been stated by the respondents that it was inadvertently/wrongly deducted and they should have immediately taken steps for refund of the same and payment of amount to the petitioner.

04. Learned counsel for the petitioner submits that the petitioner suffered great loss because of the deduction and withholding of the said amount which he could have put in business and earn the profit. He submits that the act of the respondents in deducting the amount was wrong and illegal, therefore, he would be entitled to the interest on the said amount.

05. Mr. Sandeep Gupta, learned CGSC appearing for the respondents, submits that there is no dispute with regard to the fact that the petitioner was not liable to the deduction of the said amount but it was deducted inadvertently and till date, the same has not been refunded back to him. Though they approached the Taxation Department but they have

not refunded the same. He seeks further time to seek refund of the said amount, for which, he seeks four weeks' last and final opportunity. Time as prayed for is granted to the respondents enabling them to refund the amount to the petitioner.

06. List this matter for consideration on 31.07.2024.

(VINOD CHATTERJI KOUL)
Judge

JAMMU
RAM MURTI/PS
05.06.2024

