

M/S Unity Constructions Vs. Madhya Pradesh State Tourism Development Corporation Ltd.

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Court : Madhya Pradesh

Decided On : Jul-25-2012

Appellant : M/S Unity Constructions

Respondent : Madhya Pradesh State Tourism Development Corporation Ltd.

Advocate for Def. : Shri. Himanshu Shrivastava

Advocate for Pet/Ap. : Shri. Sudhir K.Shrivastava

Judgement :

1 W.P.No.10091/12 W.P.No.10095/12 W.P.No.10097/12 W.P.No.10098/12
25.7.2012 Shri Sudhir K.Shrivastava, Counsel for petitioner.

Shri P.K.Kaurav, Dy.AG for respondent No.1 Shri Himanshu Shrivastava, Counsel for respondent No.2.

As controverRs.involved in these petitions- W.P.No.10091/12- M/s Unity Constructions versus M.P.State Tourism Development Corporation Ltd., W.P.No.10095/12-M/s Shubhanjali Constructions versus versus M.P.State Tourism Development Corporation Ltd., W.P.No.10097/12-M/s S & S Constructions versus M.P.State Tourism Development Corporation LTD.and W.P.No.10098/12- Arbee Contractors Pvt.LTD.versus M.P.State Tourism Development Corporation Ltd., is identical and all the petitioners have received a

notice from the respondent No.2 in respect of payment of service tax towards contract work performed by the petitioners with respondent No.1, all these cases are being decided by a common order.

This order shall be applicable in all the petitions as far as it is applicable.

Facts are taken from W.P.No.10091/12 for the convenience.

Petitioner entered into a contract(s) with respondent No.1 and has received a notice from respondent No.2 for payment of service tax in respect of the work done by the petitioner.

The contention of the petitioner is that petitioner is not liable to make payment of service tax and the liability to make payment of service tax is of respondent No.1.

The petitioner has submitted a representation in the shape of a legal notice to respondent No.1, copy of which is filed on record as Annexure P/4 dated 21.2.2012 and prayed in this petition that the respondent No.1 be directed to decide the representation by a speaking order.

Shri P.K.Kaurav, learned counsel appearing for respondent No.1 submitted that the respondent No.1 has no objection to consider and decide the representation of petitioner, but in the 2 W.P.No.10091/12 W.P.No.10095/12 W.P.No.10097/12 W.P.No.10098/12 25.7.2012 petition petitioner has not disclosed the particulars in respect of which contract it requires decision and also notice issued by the respondent No.2 to the petitioner.

Until and unless aforesaid facts are before the respondent No.1, respondent No.1 cannot decide the representation factually.

It was submitted by Shri Kaurav that petitioner may submit a fresh representation furnishing all the aforesaid details, so that respondent No.1 can decide the representation of the petitioner.

On raising such contention, learned counsel for petitioner submitted that within a period of two weeks from today, petitioner shall submit its detailed representation to respondent No.1.

In view of aforesaid, these petitions are finally disposed of with following directions:- (i) Petitioners may submit a fresh representation with full particulars and the relief as prayed by the petitioners to respondent No.1 within a period of two weeks from today.

An advance copy of the representation be also sent to respondent No.1 by speed post.

(ii) The respondent No.1 on receipt of the representation shall consider and decide it by a reasoned, speaking order within a period of 60 days from the date of receipt of the representation.

(iii) If for deciding the representation, an opportunity of personal hearing is required to be extended to the petitioners, then respondent No.1 shall extend such opportunity to the petitioners. The decision of the respondent No.1 shall be communicated to the petitioners forthwith by registered A.D. mode.

No order as to costs.

C.C. as per rules.

(Krishn Kumar Lahoti) (Smt. Vimla Jain) Judge Judge C.

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