

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

OWP No. 948/2010, MP No. 1290/2010

Bansi Lal and ors.

v

State of J&K and ors.

Coram:

Hon'ble Mr. Justice Ramalingam Sudhakar, Judge

Appearing counsel:

For the petitioner(s) : None

For the Respondent(s) Ms. Mehvish Shah, GA

i)	Whether approved for reporting in NET	Yes/No
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ii)	Whether approved for reporting in Digest/Journal	Yes/No
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1. The petitioner No. 1 claims to be a 'D' Class Contractor and was allotted work, mode of siphon at RD 2800M of D-7 NPC including allied work by respondent No. 2, vide order dated 22.01.2010 (Annexure- A). Petitioner No. 2 is also a 'D' Class Contractor and he was allotted work of silt clearance from main NPC from RD 17200 to 17600M by respondent No. 2 vide order dated 23.02.2010 (Annexure-C) and petitioner No 3 was allotted work of siphon of RD 2500M of D-7 vide order dated 08.01.2010 Annexure 'D'). In the petition, it is averred that petitioners having completed the above stated works within time, but respondents have not made the payment.

2. Petitioners are aggrieved by issuance of SRO 181 dated 27th April 2010, whereby Chief Accounts Officer has been directed to deduct Sales Tax from petty class and 'D' Class Contractors at the rate of 10% plus surcharge as per the provisions of Jammu and Kashmir General Sales Tax, 1962.

3. The petitioners' plea is that in respect of the works already completed, deduction of 10% sale Tax is not applicable. The petitioners in this case have not approached the authorities, namely, respondents 1 and 2 explaining the position that in respect of contracts already completed by the petitioners prior to the issuance of SRO 181 the liability in terms of aforesaid SRO does not arise and it is for the concerned authority to pass a consideration order, so as to enable the petitioners to work out their remedy.

4. In this view of the matter, while declining to interference with the impugned proceedings, liberty is given to the petitioners to make a detailed representation to the respondents 1 and 2 seeking relief for levy of Sale Tax in terms of SRO 181. If any, representation is made, the concerned authority shall accord consideration to the same within a period of four weeks by passing a reasoned order, so that if petitioners are aggrieved, they can challenge the same in accordance with law.

5. Writ petition disposed of as above.

(Ramalingam Sudhakar)
Judge

Jammu
29.04.2017
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