



**HIGH COURT OF TRIPURA  
AGARTALA**

**WP(C) No.409 of 2025**

M/s Jaypee Projects Limited, a Company, incorporated under the Companies Act, 1956, having its registered office at Trinity 5G, 226/1, A.J.C Bose Road, Kolkata-700020, represented by its Director, Sri Dilip Kumar Ghorai, son of Late Gobinda Prasad Ghorai, having his office at Trinity 5G, 226/1, A.J.C Bose Road, Kolkata-700020

.....Petitioner(s);

Versus

1. The State of Tripura represented by the Commissioner & Secretary, Public Works Department (Roads and Buildings), Government of Tripura, having his office at New Secretariat Complex, Gorkhabasti, Agartala, PO- Kunjaban, PS- New Capital Complex, Sub-Division- Agartala, District- West Tripura
2. The Commissioner & Secretary, Public Works Department (Roads & Buildings), Government of Tripura, having his office at New Secretariat Complex, Gorkhabasti, Agartala, PO- Kunjaban, PS- New Capital Complex, Sub-Division - Agartala, District- West Tripura
3. The Chief Engineer, Public Works Department (Roads & Buildings), Government of Tripura, having his office at New Secretariat Complex, Gorkhabasti, Agartala, PO- Kunjaban, PS- New Capital Complex, Sub-Division- Agartala, District- West Tripura
4. The Superintending Engineer, Public Works Department (Roads & Buildings), Government of Tripura, having his office at New Secretariat Complex, Gorkhabasti, Agartala, PO- Kunjaban, PS- New Capital Complex, Sub-Division- Agartala, District- West Tripura
5. The Executive Engineer, Public Works Department (Roads & Buildings), Government of Tripura, having his office at Agartala, Division No-III, PO- Kunjaban, PS- New Capital Complex, Sub-Division- Agartala, District- West Tripura.

.....Respondent(s)

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For Petitioner(s) : Mr. Somik Deb, Sr. Advocate,  
Ms. Adwitiya Chakraborty, Advocate,  
Mr. Jishan Samed, Advocate.

For Respondent(s) : Mr. Kohinoor Narayan Bhattacharyya, G.A.

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**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO  
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Date of hearing : **11.05.2026**

Date of Judgment & Order : **24.06.2026**

Whether Fit for Reporting : **YES**



## **JUDGMENT & ORDER**

*(M.S. Ramachandra Rao, C.J.)*

Heard Mr. Somik Deb, learned senior counsel assisted by Mr. Jishan Samed, learned counsel for the petitioner and Mr. Kohinoor Narayan Bhattacharyya, learned Government Advocate for the respondents-State.

### **Brief facts of the Case:**

2. A tender notice dt.11.08.2010 was issued by the Public Works Department of the Government of Tripura for execution of a works contract – *“Upgradation of Netaji Subhash Regional Coaching Centre/Construction of Indoor Gymnasium Hall at Agartala, West Tripura”*.
3. The petitioner was selected for execution of the said work, and a Work Order dt.27.12.2010 was issued to it. Thereafter an Agreement was also executed in favour of the petitioner by the fifth respondent for a total contract value of Rs.32,74,60,642/-.
4. The petitioner executed and completed the work on 09.01.2018, and a completion certificate was issued to the petitioner on 15.02.2018 by the fifth respondent.
5. Clause 37.2 of the Agreement executed between the parties provides that if the contractor pays taxes/levies, the contractor would be reimbursed the same.
6. The petitioner made a representation on 07.11.2017 *inter alia* seeking interest on mobilisation advance and reimbursement of taxes, which had been deducted from the part payment of the 22<sup>nd</sup> R/A Bill of the respondents.



7. There was exchange of letters between the parties thereafter, not only with regard to the said issue of reimbursement of taxes, but regarding other disputes between the parties.
8. The correspondence ended in a letter dt.27.07.2021 addressed by the petitioner to respondent No.3 seeking appointment of an arbitrator under Clause 24 of the Agreement executed between the parties, which was reiterated in letters dt.14.09.2021, 24.01.2022 and 26.04.2022 of the petitioner.
9. Since no action was taken by respondents, petitioner filed WP(C) 872/2022 before this Court for a direction to the respondents to pay dues along with 18% interest from the date they fell due.
10. On 21.12.2022, learned Single Judge of this Court disposed of the said Writ Petition stating that Writ Petition is not maintainable because there were disputed questions of fact involved, and the petitioner should avail the alternative mechanism i.e. arbitration.
11. Petitioner then filed Arbitration Petition No.06/2023 under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an arbitrator invoking Clause 24 of the Agreement between the parties, and made a claim of Rs.15,87,50,063.87/- from the respondents.
12. Thereafter certain part payments were made to the petitioner leaving a balance of Rs.8,53,799/-, but the GST reimbursement claim made under Clause 37.2 of the Agreement by the petitioner, was not granted to the petitioner by the respondents.



13. The said claim was Rs.1,21,63,338/- as on 30.04.2022 representing reimbursement of GST amount already paid by the petitioner due to delay in execution of the work caused at the instance of the respondents.

**Arbitration Petition No.06/2023:**

14. Petitioner thereafter filed Arbitration Petition No.06/2023 before this Court contending that claims relating to taxation dues, can only be decided in a Court of law or appropriate forum and they are not arbitrable, and placed reliance on the judgment of the Supreme Court in *Vidya Drolia & Others v. Durga Trading Corporation*.<sup>1</sup>

15. This Court held on 25.04.2024 in Arbitration Petition No.06/2023 accepted the said plea and held that claims relating to release of dues relating to taxes cannot be subject matter of arbitration proceedings, that the respondents had also acceded to the said contention and had not objected to the prayer of the petitioner to segregate the items of such claim relating to the issue of reimbursement of taxes before an appropriate forum.

16. It therefore disposed of the said Arbitration Petition as withdrawn with liberty to the petitioner to raise his claims relating to the said dispute in an appropriate forum/Court of law as permissible in law.

**The instant Writ Petition:**

17. Thereafter, petitioner filed the instant Writ Petition for recovery of a sum of Rs.4,14,03,960.46/- with interest @18% per annum from the date it fell due contending that denial of the same to the petitioner violates Art.14, Art.19(1)(g), Art.21, Art.265 and Art.300A of the Constitution of India.

18. The said amount included claims of works contract tax and GST.

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<sup>1</sup> (2021) 2 SCC 1

**Submission of senior counsel for petitioner:**

19. The main contention of the petitioner is Clause 37.2 of the Agreement, which states as under:

***“37.2 Conditions for reimbursement/rebate of levy/taxes if levied after receipt of tenders:***

*All tendered rates shall be inclusive of all taxes and levies payable under respective statutes. However, pursuant to the Constitution (46<sup>th</sup> Amendment) Act, 1982, if any further tax or levy is imposed by Statute, the last stipulated date for the receipt of tender including extensions if any, and the contractor thereupon necessarily and properly pays such taxes/levies, the contractor shall be reimbursed/deducted the amount so paid, provided such payments, if any, is not, in the opinion of the Engineer (whose decision shall be final and binding on the contractor) attributable to delay in execution of work within the control of the contractor.*

*The contractor shall keep necessary books of accounts and other documents for the purpose of this condition as may be necessary and shall allow inspection of the same by a duly authorised representative of the Government and/or the Engineer and further shall furnish such other information/document as the Engineer may require from time to time.*

*The contractor shall within a period of 30 days of the imposition of any such further tax or levy, pursuant to the Constitution (Forty Sixth Amendment) Act 1982, give a written notice thereof to the Engineer that the same is given pursuant to his condition, together with all necessary information relating thereto.”*

20. According to the petitioner, the Clause itself is explanatory, and there cannot be any denial of reimbursement of taxes deducted from the amounts paid to the petitioner, or which the petitioner had paid to the concerned department collecting such taxes, and the respondents are bound to reimburse the said amounts to the petitioner.



21. According to the petitioner, the amount due is as under:

**SCHEDULE OF CLAIMS (AS ON 31.03.2025)**

**PROJECTS: Up-gradation of Netaji Subhash Regional Coaching Centre/  
Construction of Indoor Gymnasium Hall at Agartala, West Tripura**

Sl. No.	Details of Claim	Amount (in Rs.)
1.	Reimbursement bills for WCT and TDS up to 21 <sup>st</sup> RA Bill, submitted on 07.11.2017 (Clause 37.2)	Rs.3,838,172.00
2.	Reimbursement of GST amount already paid by us due to delay in execution of the work at the instance of the Department (Clause 37.2) (up to 31.03.2025)	Rs.15,765,890.00
3.	Release of payment on account of simple interest payable @18% P.A. with effect from 08.01.2018 to 31.03.2025	
	i) Interest on delay in Reimbursement bills for WCT and TDS up to 21 <sup>st</sup> RA Bill, submitted on 07.11.2017	Rs.5,112,445.10
	ii) Interest on delay in Reimbursement of GST amount already paid by us due to delay in execution of the work at the instance of the Department (up to 31.03.2025)	Rs.16,687,453.36
		Rs.21,799,898.46
	<b>TOTAL=(1+2+3)</b>	<b>Rs.41,403,960.46</b>

**Submission of counsel for respondents:**

22. In the Counter Affidavit filed by the respondents, it is stated in para 15 that reimbursement of taxes would be applied as per Clause 37.2 of the Agreement.

23. In para 19, it is stated that during the execution of the work, the respondents had deducted all the taxes as per Clause 37 of the Agreement, and that conditions for reimbursement of levy/taxes after receipt of tenders, are also laid down in Clause 37.2 of the Agreement.

24. It is also not disputed that this High Court on 25.04.2024 in Arbitration Petition No.06/2023 had held that claims relating to release of dues relating to taxes, cannot be subject matter of arbitration.

25. To the specific averments made by the petitioner in para 3.8.1, 3.9, 3.9.1, 3.9.7, 3.10 and 3.12, it is stated in para 37 of the Counter Affidavit that all these are related to reimbursement of taxes.

**Consideration by the Court:**

26. On a consideration of the pleadings of the respondents in their counter affidavit, we are of the opinion that they had admitted that there is a liability to reimburse the taxes paid by the petitioner or deducted from the petitioner's bills under Clause 37.2 of the Agreement.

27. More importantly, the respondents have not even disputed the quantum of such liability as alleged by petitioner anywhere in their Counter Affidavit.

28. Though counsel for the respondents feebly argued that the petitioner cannot seek this relief in the Writ Petition filed under Art.226 of the Constitution of India, we cannot accede to the said plea.

29. In *Sri Ratan Sarkar v. The State of Tripura & Others*<sup>2</sup> and in *Sri Nimai Kar v. The State of Tripura & Others*<sup>3</sup>, this Court had held that if the State has acted in an arbitrary manner even in a matter of contract, an aggrieved party can approach the Court by way of a Writ under Art.226 of the Constitution of India and the Court, depending on the facts of the said case, was empowered to grant relief.

30. It also held that there was no ouster of the power of the High Court under Art.226 of the Constitution of India to grant relief in matters relating to contract, and the State has a duty to act fairly, and not arbitrarily even in its business dealings after entering into the realm of contract.

31. In the instant case, since there is no denial by respondents in the Counter Affidavit as to either the existence of liability for reimbursement of taxes paid by the petitioner or deducted from the petitioner's bills by the

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<sup>2</sup> WP(C) No.360/2023 decided on 30.10.2025

<sup>3</sup> WP(C) No.167/2024 decided on 24.04.2026



respondents, and since the issue is not arbitrable as already decided by this Court in Arbitration Petition No.06/2023 on 25.04.2024, we hold that the respondents' refusal to pay the said amount to the petitioner is patently arbitrary, illegal and violative of Art.14 of the Constitution of India, and that the amount claimed by the petitioner in WP(C) No.872/2022, has to be paid to the petitioner by the respondents.

32. As regards the claim for interest on the said amount which the petitioner has claimed from the respondents, we are not inclined to grant to the petitioner interest @18% per annum as claimed by the petitioner.

33. In the above referred two cases, this Court had deemed it fit to award interest @12% per annum only as they are commercial contracts.

34. We therefore direct that the petitioner shall be paid by the respondents the amount claimed in this Writ Petition with interest @12% p.a. from the respective dates of deduction of taxes by the respondents from the bills of the petitioner, or from the respective dates of payment of the same by the petitioner to the appropriate Government, till the date of actual payment to the petitioner.

35. It is further directed that the said payment be made to the petitioner within 3(three) months from the date of receipt of a copy of this Judgment.

36. Writ Petition is allowed as above. No costs.

**(BISWAJIT PALIT, J)**

**(M.S. RAMACHANDRA RAO, CJ)**

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