GAHC010022642024

2026:GAU-AS:11119

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/528/2024

M/S SURYA BUSINESS PRIVATE LIMITED
A PRIVATE LIMITED COMPANY INCORPORATED UNDER THE PROVISIONS OF COMPANIES ACT, 1956
HAVING ITS PLACE OF BUSINESS AT GAR ALI, JORHAT, ASSAM, 785001, AND IN THE PRESENT PROCEEDINGS REPRESENTED BY SRI SUNIL RANJAN JAIN, GENERAL MANAGER OF THE PETITIONER COMPANY

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, DEPARTMENT OF FINANCE AND TAXATION, ASSAM SECRETARIAT, DISPUR, GUWAHATI - 781006

2:THE ASSISTANT COMMISSIONER OF STATE TAX
APEX GST AUDIT CELL
ASSAM
KAR BHAWAN
DISPUR
GUWAHATI-781005

3:THE COMMISSIONER OF STATE TAXES
ASSAM
KAR BHAWAN
GANESHGURI
GUWAHATI-781006

4:M/S ATIKUR RAHMAN
22 URBAN CITY COMPLEX

MAHAPURUSH SRIMANTA SANKARDEV PATH

DISPUR
KAMRUP(M)
GUWAHATI- 781005

ASSAM

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. A. Kanodia, Advocate

For the Respondent(s) : Mr. B. Choudhury, Standing Counsel

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **10.08.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : Yes
- Whether the full Judgment has been Pronounced : N/A

JUDGMENT AND ORDER (ORAL)

Heard Mr. A. Kanodia, the learned counsel appearing on behalf of the Petitioner and Mr. B. Choudhury, the learned Standing counsel appearing on behalf of the Respondent Nos. 1, 2 and 3.

2. The present writ petition has been filed by the Petitioner assailing the Show Cause Notice dated 11.01.2024 issued by the Respondent No.2 under Section 73(1) of the Assam Goods and Services Tax Act, 2017 (for short 'the Act of 2017').

3. It is the specific case of the Petitioner that the issuance of the

said Show Cause Notice could not have been done by the Respondent No.2 without taking into consideration that the Petitioner has duly paid the GST to the supplier of the rental services to the Petitioner and on account of the supplier of the rental services having not submitted the returns or inadequately submitted the returns, the initiation of proceedings under Section 73(1) of the Act of 2017 requires to be interfered with.

4. This Court has duly considered the submissions of Mr. A. Kanodia, the learned counsel appearing on behalf of the Petitioner who has relied upon the various judgments of the Supreme Court as well as the documents claiming to be evidence of the fact that the Petitioner had paid the GST to the Respondent No.4.

5. The question as to whether the Petitioner had paid the GST amount to the Respondent No.4 and/or as to whether the Respondent No.4 had duly submitted the returns are questions of facts which can be very well adjudicated by the Proper Officer.

6. The judgments referred to by the learned counsel for the Petitioner can also be placed by the Petitioner while submitting the Show Cause Reply to the impugned Show Cause Notice.

7. This Court also takes note of that there is no jurisdictional error committed by the Respondent No.2 in issuance of the said

Show Cause Notice inasmuch as issuance of the Show Cause Notice is based upon the opinion of the Proper Officer as to the existence of the facts for initiation of proceedings under Section 73 of the Act of 2017. Under such circumstances, this Court therefore is not inclined to entertain the instant writ petition.

8. This Court enquired with the learned counsel for the Petitioner as to whether the Petitioner has submitted the reply to the Show Cause Notice. The learned counsel for the Petitioner submitted that the Petitioner has not submitted the reply to the Show Cause Notice in view of the filing of the present writ petition and the interim order passed by the learned Coordinate Bench of this Court in the order dated 05.02.2024.

9. Accordingly, the instant writ petition therefore stands disposed of with the following observations and directions:

(i) This Court finds no jurisdictional error committed by the Respondent No.2 in issuance of the Show Cause Notice dated 11.01.2024 bearing Reference No. ZD180124017786B.

(ii) Taking into account that in view of the present proceedings and the stay so granted by the learned Coordinate Bench, the Petitioner had not submitted the reply, this Court grants the Petitioner a period of 30 days from today to submit reply to the impugned Show Cause Notice dated 11.01.2024. In the said reply to the Show Cause Notice dated 11.01.2024, the Petitioner would be at liberty to raise all the contentions which have been raised in the present proceedings.

(iii) Taking into account that this Court had stayed the Show Cause Notice dated 11.01.2024 and further this Court has now permitted the Petitioner to submit a reply within 30 days from today, this Court is of the opinion that the period from 12.01.2024 till date should be excluded while computing the period of limitation in terms with Section 73(10) of the Act of 2017 for passing an order under Section 73(9) of the said Act. Accordingly, this Court observes and directs that the period from 12.01.2024 till date be excluded while computing the period of limitation as mentioned in Section 73(10) of the Act of 2017 for passing any order in consequence to the impugned Show Cause Notice dated 11.01.2024.

(iv) Interim order passed earlier stands vacated.

JUDGE

Comparing Assistant