GAHC010112292025

2026:GAU-AS:15706

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

Case No. : WP(C)/2841/2025

M/S RISHI STONEX
A PROPRIETORSHIP CONCERN BEARING GSTIN 17ADUPA9013C1ZR HAVING ITS SHOP SITUATED AT 10TH MILE MAWASMAI VILL RI BHOI DIST PIN 793101 MEGHALAYA AND IS REP BY ITS PROPRIETOR SRI JITENDER AGARWAL, S/O ROHTASH AGARWAL

VERSUS

THE STATE OF ASSAM AND 5 OTHERS
REP BY COMMISSIONER AND SECRETARY, FINANCE DEPARTMENT, GOVT OF ASSAM, GUWAHATI,781006

2:THE PRINCIPAL /CHIEF COMMISSIONER OF STATE TAX
GOODS AND SERVICES TAX ASSAM KAR BHAWAN DISPUR GUWAHATI 6 ASSAM

3:THE JOINT COMMISSIONER OF STATE TAX GUWAHATI ZONE B
KAR BHAWAN DISPUR GUWAHATI 6 ASSAM

4:GLOBAL IMPEX SERVICE
HAVING ITS PLACE OF BUSINESS AT PLOT NO B 4 III PHASE RIICO INDUSTRIAL AREA KISHNGARH RURAL AJMER RAJASTHAN 305801 AND ALSO HAVING THEIR OFFICE AT B4 MARBLE MANDI BEHIND KISHANGARH DIST AJMER RAJASTHAN 305801

5:THE CONTAINER CORPORATION OF INDIA
CONCOR BHAWAN C 3 MATHURA ROAD OPPO APOLLO HOSPITAL NEW DELHI 110076

6:THE TERMINAL MANAGER
ICD CONCOR AMINGAON GUWAHATI DIST KAMRUP (RURAL) PIN 781031 ASSA

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Ms. B. Chauhan, Advocate

For the Respondent(s) : Mr. B. Gogoi, Addl. AG, Assam

- Date on which Judgment was reserved : NA
- Date of Pronouncement of Judgment : **14.10.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : Yes
- Whether the full Judgment has been Pronounced : NA

JUDGMENT AND ORDER (ORAL)

Heard Ms. B. Chauhan, the learned counsel appearing on behalf of the Petitioner and Mr. B. Gogoi, the learned Additional Advocate General, Assam appearing on behalf of the Finance and Taxation Department of the Government of Assam.

2. The Petitioner herein who is registered under the Central Goods and Services Tax Act, 2017 (for short 'the CGST Act of 2017') is a consignee of certain goods. These goods were transported through the Respondent No.4 and the Petitioner claims to have paid the necessary taxes in that regard. The said goods which were transported by the Respondent No.4 were intercepted at the Amingaon Railway Yard by the officials of the Principal

Commissioner of State Tax, Assam suspecting that some unscrupulous traders are procuring Marbles, Granites, Tiles declaring undervalue and underweight from the States of Gujarat and Rajasthan in containers through Railway and consignments are loaded at ICD, Amingaon.

3. Upon arrival of the train consisting of 80 numbers of consignments, the Respondent No.2 in order to verify the records, invoices, e-way bills, weight of such goods to authenticate the genuineness of the purchases made by the taxpayer, asked the Terminal Manager ICD, Amingaon to cooperate with the officials by providing documents and records available for these 80 numbers of containers along with the names of the consignees in the interest of Government Revenue.

4. It is the claim of the Petitioner that out of the 80 numbers of containers, three wagons/containers bearing Nos. CXNU1104211, CXNU1867126 and CXNU1889758 were not goods which were undervalue, underweight declarations or any case of evasion of taxes. There was full compliance to the provisions of the Integrated Goods and Services Tax Act, 2017 (for short 'ISGT Act of 2017').

5. Be that as it may, it is the further case of the Petitioner that the Respondent Authorities in the Assam State Goods and Services Tax issued notice only to the Respondent No.4 who is the transporter as to why penalty at the rate of 200% will not be imposed on tax amount of Rs.1,47,565/-. The Respondent No.4 had agreed to make the payment of the said tax but did not make the payment and accordingly the State Authorities were contemplating to take action under Section 129 of the Assam Goods and Services Tax Act, 2017 (for short 'AGST Act of 2017').

6. The basic grievance of the Petitioner in the present proceedings is that the Petitioner being a consignee ought to have been issued the Show Cause Notice so that the Petitioner would have been in a position to explain that the goods in question were neither undervalue nor underweight or a case of evasion of tax is made. On account of non-issuance of such notice and steps being taken for initiating proceedings under section 129 of the AGST Act of 2017, the Petitioner has approached this Court by filing the present writ petition.

7. This Court vide an order dated 03.06.2025 issued notice and further directed that the Respondent Authorities should not take any further steps for carrying out any auction of the goods in

question for realization of an amount of Rs.2,95,130/-. Additionally, this Court also observed that it shall not be a bar on the part of the State GST Department to issue notice to the Petitioner alleging violation of the provisions of the AGST Act of 2017.

8. Pursuant to the issuance of notice, the Respondents have not filed their affidavit-in-opposition. However, Today, Mr. B. Gogoi, the learned Additional Advocate General appearing on behalf of the Finance and Taxation Department has placed before this Court an instruction dated 08.07.2025 which is kept on record and marked with the letter "X".

9. From a perusal of the said instruction, it transpires that the detention of the goods in question was made to verify the records of the movement of goods, but since the dealer did not appear at the time of verification, the representatives of the transporter, i.e. the Respondent No.4 appeared and admitted his fault of non-uploading of the Part-B of the E-way bill and accordingly notice was issued only to the transporter. It is seen that while there is a stay to the auction, the service upon the transporter is yet to be completed. On the other hand, on account of the goods being detained by the Respondent Authorities, the Petitioner is suffering losses.

10. Under such circumstances, the Court is of the opinion that the instant writ petition can be disposed of taking into account that the dispute is on the aspect as to whether the goods in question were undervalue or underweight declarations for evasion of taxes and this aspect can be very well satisfied by the Petitioner by showing the necessary documents. Be that as it may, for showing such documents, a notice has to be issued to the Petitioner.

11. Accordingly, this Court therefore disposes of the instant writ petition with the following observations and directions:

(i) The Assistant Commissioner of State Tax, Guwahati Zone is directed to issue a fresh notice upon the Petitioner within a period of 15 days from today asking the Petitioner to show cause in the manner set out in the notice which was issued to the Respondent No.4 i.e. dated 18.05.2023.

(ii) Upon such notice being issued, the Petitioner would be at liberty to submit a reply to the said Show Cause Notice along with all necessary documents.

(iii) The Assistant Commissioner of State Tax, Guwahati thereupon shall decide the said show cause proceedings in accordance with the AGST Act of 2017 as well as the Rules framed thereinunder

read with the IGST Act of 2017 and the Rules framed thereinuner.

(iv) If the Petitioner is aggrieved by such decision, the Petitioner would be at liberty to approach the appropriate forum.

JUDGE

Comparing Assistant