

GAHC010171152019



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

Case No. : WP(C)/5224/2019

M/S. SHREE SAI TIMBER DEPOT
A PROPRIETORSHIP FIRM HAVING ITS REGD. OFFICE 16TH MILE, G.S.
ROAD, BYRNIHAT REP. BY ITS PROPRIETOR SRI VIRENDRA UPADHYAY.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, DEPTT. OF
ENVIRONMENT AND FOREST, DISPUR, GUWAHATI-781006, ASSAM.

2:THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM
ENVIRONMENT ANF FOREST
DISPUR
GUWAHATI-781006
ASSAM.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (LEGAL) AND HEAD
OF FOREST FORCE
ASSAM
PUNJABARI
GUWAHATI-781036
ASSAM.

4:THE DIVISIONAL FOREST OFFICER
KAMRUP EAST DIVISION
BASISTHA
GUWAHATI-29
ASSAM.

5:THE FOREST BEAT OFFICER
JARABAT BEAT AND KHANAPARA BEAT OFFICE
KAMRUP EAST DIVISION
BASISTHA

GUWAHATI-29
ASSAM

Advocate for the Petitioner : MR A TEWARI

Advocate for the Respondent : SC, FOREST

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 22-05-2023

Heard Mr. A. Tewari, learned counsel for the petitioner and Mr. R.R. Gogoi, learned Standing Counsel, Environment & Forest Department for all the respondents.

2. The subject-matter of challenge in the instant writ petition is legality and validity of a Notification bearing no. FRE-118/2014/201 dated 06.03.2017 issued by the respondent no. 2.

3. The learned counsel for the parties have submitted that the said Notification was also subject-matter of challenge in a batch of writ petitions including the writ petition, W.P.[C] no. 3140/2017 [Riangdo Veneers Private Limited vs. the State of Assam and others]. The said batch of writ petitions were disposed of by a common order dated 27.09.2019 and the operative part of the common order dated 27.09.2019 reads as under : -

“27. Though the legal issues as extracted and discussed above are well-settled, those have to be applied on facts which are pleaded. Petitioners would have to show what is the rate of levy in the neighbouring States and in the State of Assam; how enhancement of levy by the impugned notification would discriminate against the goods manufactured or produced by them outside the State of Assam and which are transported into the State of Assam through the inter-state boundaries. In the absence of such facts, any adjudication would be on presumption. However, in this regard the letter issued from the office of the Principal Chief Conservator of Forests and Head of Forest Force, Assam, dated 05.07.2017, requesting the State Government to re-examine and revise the rates of levy, as produced by Mr. Mazumdar may be taken note of.

28. Therefore, having regard to the above and on a thorough consideration of the materials on record, Court is of the view that the matter is required to be relooked by the Environment and Forest Department, Government of Assam, taking note of the discussions made above. Let the impugned notification dated 06.03.2017 be looked into afresh by the Government of Assam in the Environment and Forest Department, keeping in mind the legal and constitutional requirements as well as views expressed by the departmental authorities, whereafter, an appropriate decision may be taken. Let such decision be taken within a period of 4 (four) months from the date of receipt of a certified copy of this order. During this period, restraint orders passed by this Court to the effect that respondents would not insist on the rates indicated in the impugned notification dated 06.03.2017 would hold the field.

29. All the writ petitions are disposed of.”

4. It is submitted by Mr. Gogoi, learned Standing Counsel, Environment & Forest Department that the impugned Notification dated 06.03.2017 has since been withdrawn.

5. In view of the above submission made by the learned counsel for the parties, this writ petition stands disposed of observing that the case of the petitioner is to be abide by the direction made in common order dated 27.09.2019 passed in the writ petition, W.P.[C] no. 3140/2017 and the other writ petitions.

JUDGE

Comparing Assistant