

GAHC010177832015



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

Case No. : WP(C)/4741/2015

M/S. VISWAKARMA PLASTIC INDUSTRIES
FACTORY SHED NO. 22, INDUSTRIAL ESTATES, NEW BONGAIGAON, P.O.
and DIST.- BONGAIGAON, ASSAM, REP. BY ITS PRATNER, SMTI. NIRMALA
DEVI DAKALIA, W/O- SHRI SUNDARLAL DAKALIA, R/O- WARD NO. 5,
MAIN ROAD, BONGAIGAON, P.O.- BONGAIGAON, PIN- 783381, DIST.-
BONGAIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
THROUGH THE SECY. TO THE GOVT. OF ASSAM, DEPTT. OF INDUSTRIES,
DISPUR, GHY- 6.

2:THE DIRECTOR OF INDUSTRIES
ASSAM
BAMUNIMAIDAN
GHY- 21.

3:THE MANAGING DIRECTOR
ASSAM INDUSTRIAL INFRASTRUCTURE DEVELOPMENT CORPORATION
A GOVT. OF INDIA UNDERTAKING BAMUNIMAIDAN
GHY- 21.

4:THE GENERAL MANAGER
DIST. INDUSTRIES AND COMMERCE CENTRE
BONGAIGAON
P.O. and DIST.- BONGAIGAON
ASSAM

Advocate for the Petitioner : MS.A DAS

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 15.02.2023

Heard Ms. U. Nanda, learned counsel appearing on behalf of Mr. S. C. Biswas, learned senior counsel for the petitioner. Also heard Mr. N. Goswami, learned counsel for respondent No.1. Mr. M. Mahanta, learned counsel for respondent No.3 and Mr. A. Kalita, learned counsel for respondents No. 2 and 4.

2. By this writ petition, the petitioner has challenged the impugned show cause notice dated 23.06.2015 whereby an amount of Rs.3,00,719.00 and Rs. 17,762.00 being the outstanding amount of lease rent and service tax respectively was demanded. The petitioner was allotted a shed/open space by the respondent no.3 on lease for purposes of running its unit within the Industrial Estate, New Bongaigaon, which is under the respondent no.3.

3. This Court while issuing Notice vide order dated 02.09.2015 directed respondent authorities not to initiate any action towards cancellation of the allotment of shed no.3 allotted to the petitioner subject to the condition that the arrear dues towards the industrial shed as well as the service tax with effect from 01.05.2008 is paid by the petitioner within

a reasonable period of time. The petitioner has referred to an order of this Court dated 28.10.2013 passed in WP (C) No. 2199/2008 (M/S Tulsi Industries Vs State of Assam).

4. No counter affidavit has been filed by the respondent authorities. Respondents have not filed any counter contesting the claims of the petitioner.

5. Learned counsel for the petitioner submits that they have paid the enhance rent with effect from 01.05.2008 as has been raised by the respondent no.3. Learned counsel for the petitioner submits that this writ petition can be disposed of in terms of the order dated 28.10.2013 passed in WP (C) No. 2199/2008.

6. The learned counsel for the respondent does not dispute the submissions. It is also not disputed that the said order dated 28.10.2013 passed in WP (C) No. 2199/2008 has not been interfered with by an appellate Court, therefore the order has attained finality.

7. Having heard the learned counsels for the parties and on due perusal of the pleadings on record, this Court is of the view that the writ petition can be disposed of at the stage in terms of the order dated 28.10.2013 passed in WP (C) No. 2199/2008.

8. Accordingly, it is directed that the writ petitioner will pay enhanced rental for the allotted shed and open area w.e.f. 01.05.2008. However, arrear dues at the enhanced rate prior

to 01.05.2008, should not be realize from the occupier.

9. For the arrear rental dues at the enhanced rate starting from 01.05.2008, the allottee may apply for installment payment and the competent authority is directed to consider allowing installment payment for the arrear dues w.e.f 01.05.2008. Necessary order on installment payment may be passed on written representation which must be filed on or before 13.03.2023 by the petitioner.

10. For the unauthorized change of use of the allotted Industrial shed, the petitioner should apply before the concerned authorities as directed above so that fresh lease agreement can be executed to regularize use of the allotted shed, for manufacturing of plastic products.

11. In terms of the above, needless to say the respondents will be entitled to recover any enhance rate if found due from the petitioner with effect from 01.05.2008.

12. With the above directions and observations the writ petition is disposed of.

JUDGE

Comparing Assistant