

GAHC010189582023



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

Case No. : WP(C)/5015/2023

SRI ANIMESH BRAHMA
SON OF MANTU RAM BRAHMA,
RESIDENT OF HATIMATHA ROAD, WARD NO.8, KOKRAJHAR, ASSAM,
783370.

VERSUS

UNION OF INDIA
REPRESENTED BY SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF FINANCE,
NEW DELHI.

2:THE PRINCIPAL COMMISSIONER OF CENTRAL GOODS AND SERVICE
TAX
CENTRAL EXCISE
GST BHAWAN
KEDAR ROAD MACHAKHOWA
781001.

3:THE ADDL. COMMISSIONER
CENTRAL GOODS AND SERVICE TAX
CENTRAL EXCISE
GST BHAWAN
KEDAR ROAD
MACHAKHOWA
GUWAHATI
781001

For the petitioner(s) : Mr. R.S. Mishra, Advocate.

For the respondent(s) : Mr. S.C. Keyal, SC, GST.

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

O R D E R

01.09.2023

1. The Petitioner herein has challenged the Order-in-Original No.35/Addl. Commr./ST/GHY/2021-2022 dated 19.01.2022 primarily on the ground that the said order was passed without serving the Show-Cause-Notice dated 18.12.2020 to the Petitioner and also without giving an opportunity of personal hearing to the Petitioner.

2. This Court have duly perused the order dated 19.01.2022, whereby the allegations so made in the Show-Cause-Notice dated 18.12.2020 have also been reflected. However, there is no mention whatsoever as to whether the said Show-Cause-Notice was served upon the Petitioner except stating that the Petitioner did not submit any reply to the Show-Cause-Notice.

3. Be that as it may, as the matter has been taken up at the stage of Motion, two options are available with this Court either to issue Notice thereby staying the Order-in-Original dated 19.01.2022 or direct the Respondents to furnish a copy of the Show-Cause-Notice to the Petitioner and thereby fixing a particular date for furnishing his reply so that the proceedings so initiated on the basis of the Show-Cause-Notice dated 18.12.2020 can be brought to a logical conclusion by the Respondent Authorities.

4. The learned counsel for the GST Department submits that if Notice is issued it would only delay the adjudication. He submits that the Respondent Authorities are not adverse to furnishing a copy of the Show-Cause-Notice dated 18.12.2020 to the Petitioner if this Court passes appropriate directions so that the proceedings so initiated in terms with the Show-Cause-Notice dated 18.12.2020 can be brought to a logical conclusion.

5. Upon hearing the learned counsel and taking into account the submission so made by Mr. S.C. Keyal, learned counsel appearing for the GST Department, this Court set aside the impugned order dated 19.01.2022 on the ground that there would be a *de novo* adjudication by the Respondent Authorities by furnishing a copy of the Show-Cause-Notice dated 18.12.2020 to the Petitioner. This Court also finds it relevant to take note of that Mr. S.C. Keyal, learned counsel appearing on behalf of the Respondents, on instructions submits that the Petitioner can approach the Additional Commissioner, GST and Central Excise, Commissionerate Guwahati, having its office at GST Bhawan, Kedar Road, Machkhowa, Guwahati, 781001 on 05.09.2023 at 11 a.m for a copy of the Show-Cause-Notice dated 18.12.2020.

6. Taking into account the said submission, this Court directs the Petitioner to approach the Additional Commissioner, GST and Central Excise, Commissionerate Guwahati, having its office at GST Bhawan, Kedar Road, Machkhowa, Guwahati, 781001 on 05.09.2023 at 11 a.m. and thereupon the said Additional Commissioner, who is the Respondent No.3 in the instant proceedings is directed to serve a copy of the Show-Cause-Notice dated 18.12.2020 to the Petitioner and take due receipt. The Respondent No.3

thereupon shall also fix the date, by which the Petitioner would have to submit his reply. Further to that, the dates of personal hearing also may be notified by the Respondent No.3.

7. With the above observations and directions, the instant writ petition stands disposed off.

JUDGE

Comparing Assistant