

GAHC010249002023



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

Case No. : W.P.(Crl.)/40/2023

TAI TAJIK AND ANR.
S/O TAI TAA
R/O SENKI VIEW, ITANAGAR,
PAPUMPARE, ARUNACHAL PRADESH, PIN-791111

2: KAZI MOTIUR RAHMAN
S/O KAZI MOHAMMAD HUSSAIN
R/O H-45
T.T. MARG OPPOSITE HOTEL TSANGPO
BANK TINALI
DIST. PAPUMPARE
ITANAGAR
ARUNACHAL PRADESH
PIN-791111

VERSUS

UNION OF INDIA AND 3 ORS.
REP. BY ADDITIONAL DIRECTOR GENERAL,
DIRECTORATE GENERAL OF GOODS AND SERVICE TAX INTELLIGENCE,
GUWAHATI ZONAL UNIT, GUWAHATI, THROUGH STANDING COUNSEL,
GST.

2:MR. DEBANGSHU CHAKRABORTY
SENIOR INTELLIGENCE OFFICER

DGGI
GUWAHATI ZONAL UNIT
THROUGH COUNSEL
GST.

3:MR NIZAMUDDIN AHMED
SENIOR INTELLIGENCE OFFICER

DGGI
GUWAHATI ZONAL UNIT

THROUGH STANDING COUNSEL
GST.

4:MUKUL GAUR
INTELLIGENCE OFFICER
DIRECTORATE GENERAL OF GOODS AND SERVICE TAX INTELLIGENCE
AT GUWAHATI
THROUGH STANDING COUNSEL
GST

Advocate for the Petitioner : MR. B K MAHAJAN

Advocate for the Respondent : SC, GST

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

20.11.2023

Heard Mr B K Mahajan, learned counsel for the petitioners, Tai Tajik and Kazi Motiur Rahman.

2. The petitioners have filed this application under Article 226 of the Constitution of India for issuance of a writ in the nature of Mandamus or any other appropriate writ or order or direction.

3. The petitioners' case is that the petitioner No. 1 is the proprietor of a firm, namely, M/s R T T Enterprise at 'C' Sector, Opp. BSNL GMT Office, Bank Tiniali, Papumpare, Itanagar, Arunachal Pradesh. Petitioner No. 2 is an associate of petitioner No. 1. A Search Authorization dated 07.10.2023, was issued by the Additional Director of DGGI, Guwahati Zonal Unit and, thereafter, search operation was conducted under Sub-Section (2) of Section 67 of Central Goods and Services Tax Act, 2017, in the office premises of M/s R T T Enterprises, in the absence of the petitioners and several articles were seized. The petitioners are apprehending that coercive action may be taken against them.

4. Heard Mr S C Keyal, learned Standing Counsel, CGST.
5. Learned Standing Counsel, Mr S C Keyal has accepted notices on behalf of respondent Nos. 1, 2, 3, and 4. So, no formal notice is required to be issued to the respondents.
6. Meanwhile, sufficient copies may be furnished to the respondents.
7. I have considered the submissions at the Bar.
8. It is submitted on behalf of the petitioners that an amount of Rs. 2,51,04,730/- has been voluntarily paid as per Section 74(5) of the CGST Act and the petitioners are willing to pay the GST, in accordance with law, but assessment is not yet complete. It is also submitted that the petitioners are willing to appear before the IO with relevant documents and cooperate with the investigation.
9. Both the parties have relied on the decision of Hon'ble the Supreme Court in *State of Gujarat vs- Choodamani Parmeshwaran Iyer*, in connection with Criminal Appeal Nos. of 2023, arising out of SLP (Crl.) No. 4212-4213 of 2019, decided on 17th July, 2023, whereby the respondents were directed to appear before the authorities for the purpose of recording their statements.
10. In this case at hand, I deem it proper to pass an order directing the petitioners to appear before the Investigating Officer and the respondent authorities, for the purpose of recording their statements within 10 days from today and only if the petitioners fail to appear, then it shall be open for the authority concerned to proceed further in accordance with law. In the event of violation by either side, each party would be at liberty to approach the proper forum for redressal.
11. In terms of the above observations, petition is disposed of.

JUDGE

Comparing Assistant