

GAHC010001902024



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

Case No. : WP(C)/22/2024

DIBYAJIT BORA
SON OF LATE MINA RAM BORA,
RESIDENCE OF DONA PRESIDENCY,
A-7, BLOCK-A, TYPE-B, VIP ROAD,
GUWAHATI- 781036.

VERSUS

UNION OF INDIA AND 2 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF FINANCE, NEW DELHI-1.

2:THE COMMISSIONER
CENTRAL GOODS AND SERVICES TAX
MILAN NAGAR
LANE-F

P.O.- C.R. BUILDING

DIBRUGARH- 786003.

3:THE ADDL. COMMISSIONER
CENTRAL GOODS AND SERVICE TAX
MILAN NAGAR
LANE-F

P.O.- C.R. BUILDING

DIBRUGARH- 786003

Advocate for the Petitioner : MR. A K GUPTA

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 08-01-2024

Heard Mr. R.S. Mishra, learned counsel for the petitioner; Ms. P. Tamuli, learned counsel appearing on behalf of Mr. K. Phukan, learned Central Government Counsel for the respondent no. 1; and Mr. S.C. Keyal, learned Standing Counsel, GST for the respondent nos. 2 & 3.

2. The petitioner has submitted that he has been carrying on his sole proprietorship business as 'M/s Dibyajit Bora' and the said proprietorship firm has been registered with the respondent GST authorities. The petitioner was served with a Demand-cum-Show Cause Notice bearing no. V[15]68/ADJ/ST/COMMR/DIB/2020/7092 dated 30.12.2020 asking him to show cause within 30 days from the date of receipt of the Notice as to why service tax of Rs. 1,27,17,421/- under Section 73[1] of the Finance Act, 1994 read with Section 142[8][a] CGST Act, 2017 along interest, penalty, etc. should not be recovered from him. The petitioner has submitted that he has submitted a Reply in response to the said Demand-cum-Show Cause Notice on 12.01.2021. The petitioner has averred that the petitioner was not aware about the passing of the Order-in-Original by the respondent no. 3 on 03.06.2022. The petitioner was made aware of the passing of the Order-in-Original on 03.06.2022 when he received a Notice dated 20.07.2023 from the Commissioner [Appeals] to appear for a personal hearing in connection with an appeal which has been presented by the Department against the Order-in-Original dated 03.06.2022. By an Order-

in-Appeal dated 06.09.2023, the Commissioner [Appeals] dismissed the appeal preferred by the Department against Order-in-Original dated 03.06.2022 passed by the respondent no. 3.

3. It is in the above sequence of events, the petitioner stated to have submitted an application before the respondent no. 3 on 17.10.2023 requesting him to furnish a certified copy of the Order-in-Original dated 03.06.2022 so as to enable the petitioner to take appropriate steps in the matter. As the certified copy of the Order-in-Original dated 03.06.2022 has not been furnished to the petitioner till date, the petitioner has preferred the instant writ petition.

4. Mr. Keyal, learned Standing Counsel, GST has submitted that in view of the limited prayer made by the petitioner as regards supply of a certified copy of the Order-in-Original dated 03.06.2022, the writ petition can be disposed of at the motion stage itself. As the concerned Departmental authority i.e. the respondent no. 3 is agreeable to furnish a certified copy of the Order-in-Original dated 03.06.2022 whenever the petitioner appears at the office of the respondent no. 3, he has submitted that if the petitioner appears before the respondent no. 3 on 18.01.2024, a certified copy of the Order-in-Original dated 03.06.2022 will be supplied to him.

5. Mr. Mishra, learned counsel for the petitioner has submitted that the petitioner will accordingly appear before the respondent no. 3 on 18.01.2024 to receive a copy of the certified copy of the Order-in-Original dated 03.06.2022.

6. In view of the above submissions made by the learned counsel for the parties, it is not necessary to proceed further with the writ petition, save and except giving a direction to the petitioner to appear before the respondent no. 3

on 18.01.2024 and a direction to the respondent no. 3 to supply a certified copy of the Order-in-Original dated 03.06.2022 to the petitioner when the petitioner appears before him on 18.01.2024. It is accordingly directed.

7. This order disposes of the writ petition.

JUDGE

Comparing Assistant