

GAHC010051992023



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

Case No. : WP(C)/1717/2023

M/S MUKESH AND SONS
KUSHAN PLAZA, G.S.ROAD, DISPUR, DIST.- KAMRUP (M), GUWAHATI-
781006, ASSAM, REP. BY ITS GENERAL MANAGER, SRI SAURABH MODI,
R/O- H.NO. 19, LACHIT NAGAR, BYE-LANE NO. 9, SOUTH SARANIA,
GUWAHATI- 781007

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE SECY. TO THE GOVT. OF ASSAM, FINANCE DEPTT., BLOCK F,
ASSAM SECRETARIAT, DISPUR, GUWAHATI- 781006, ASSAM

2:THE COMMISSIONER OF TAXES
ASSAM
KAR BHAWAN
DISPUR
GHY-06
ASSAM

3:THE JOINT COMMISSIONER OF TAXES
ASSAM
KAR BHAWAN
DISPUR
GHY-06
ASSA

Advocate for the petitioner(s): Dr. A Todi

Advocate for the respondent(s): Mr. B Gogoi

Standing Counsel, Finance & Taxation

Department, Government of Assam

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

23.07.2024

The petitioner herein being aggrieved by the order dated 12.01.2023 by which its revision petition filed against the assessment order for the assessment year 2016-17 was dismissed for default has approached this Court by filing the instant writ petition.

2. Heard Dr. A Todi, the learned counsel appearing on behalf of the petitioner and Mr. B Gogoi, the learned standing counsel for the Finance & Taxation Department, Government of Assam.

3. From a perusal of the materials on record, it is seen that being aggrieved by the assessment order for the assessment year 2016-17, the petitioner had preferred a revision proceedings before the Commissioner of Taxes, Assam.

4. Initially, a notice for hearing was issued on 24.05.2022 thereby directing the representative of the petitioner to appear on 13.06.2022. The representative of the petitioner duly appeared on 13.06.2022 and the matter was fixed on 23.06.2022, on which date, it was informed that another date would be fixed and the petitioner would be duly informed. However, the petitioner received no information as regards the date so fixed. Subsequently, the impugned order dated 12.01.2023 was received by the petitioner, whereby it was informed that the said revision petition was dismissed as the representative of the petitioner

failed to appear or take steps in the said revision proceedings.

5. It is also seen that the petitioner had also requested the Joint Commissioner of Taxes, Assam to recall the said order vide a communication dated 21.01.2023 which was, however, refused vide an order dated 23.02.2023. Pursuant thereto, the instant writ petition has been filed.

6. It is taken note of that the respondents have filed their affidavit wherein it has been mentioned that on the earlier occasion the petitioner had due notice of the revision proceedings. However, subsequently, when the said notice was sent thereby fixing a date for the revision proceedings, the representative of the petitioner did not appear for which the order dated 12.01.2023 was passed.

7. This Court while hearing the learned counsels appearing on behalf of the parties had enquired with Mr. B Gogoi, the learned standing counsel, Finance & Taxation Department, Government of Assam as to how the notice was effected upon the petitioner and as to whether there is any document to show that the notice of the date fixed for hearing was received by the petitioner. The learned standing counsel submitted that the notice was sent by simple post, as such, there is no document to that regard.

8. This Court upon hearing the learned counsels appearing on behalf of the parties is of the opinion that the petitioner ought to be granted a further chance to proceed with the revision proceedings for the interest of justice.

9. Accordingly, this Court interferes with the order dated 12.01.2023 as well as the order dated 23.02.2023 and restores the revision proceedings filed in respect to the assessment year 2016-17 to the file of the Joint Commissioner of Taxes, Assam.

10. The petitioner is directed to appear before the Joint Commissioner of Taxes,

Assam along with a certified copy of this order on 31.07.2024. The Joint Commissioner of Taxes, Assam shall thereupon fix a particular date or such other dates as may be fixed for the purpose of adjudicating the said revision proceedings.

11. With the above observation(s) and direction(s), the writ petition stands disposed of.

JUDGE

Comparing Assistant