

GAHC010099492024



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

Case No. : WP(C)/2644/2024

HOTEL ATITHI
(UNIT OF ROYAL MISSION CONSTRUCTION PVT LTD) A COMPANY
REGISTERED UNDER THE COMPANIES ACT 1956, HAVING ITS
REGISTERED OFFICE AT SITUATED AT A.K. AZAD ROAD OPPOSITE OF
NEPALI MANDIR, PALTAN BAZAR, GUWAHATI 781008. REPRESENTED BY
ITS MANAGING DIRECTOR SRI YUVARAJ SHARMA SON OF LATE SHREE
PRASAD SHARMA

VERSUS

UNION OF INDIA AND 2 ORS
REPRESENTED BY THE SECRETARY OF GOVERNMENT OF INDIA,
MINISTRY OF FINANCE NEW DELHI-110001

2: THE PRINCIPAL COMMISSIONER
CENTRAL GOODS AND SERVICES TAX
GST BHAWAN
KEDAR ROAD
KAMRUP(M)
ASSAM
781001

3: THE ASSISTANT COMMISSIONER
CENTRAL GOODS AND SERVICES TAX

GUWAHATI-II DIVISION
GUWAHAT

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

For the Respondent(s) : Mr. S. C. Keyal, SC, GST
: Ms. K. Phukan, Dy. S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 24.07.2024

The instant writ petition has been filed by the Petitioner challenging the order dated 28.02.2024 whereby the adjudicating authority i.e. the Assistant Commissioner of GST and Central Excise has passed an order thereby confirming the demand of the Service Tax and also directed that interest as well as penalty be paid as adjudged therein.

2. The sole ground on which the instant writ petition has been filed is that the Petitioner was issued a show cause notice on 22.10.2021. Thereupon, the Petitioner submitted a reply on 27.03.2023. It is also seen that the Petitioner was heard on 29.03.2023. In the meantime, the Adjudicating Authority changed and the new Adjudicating Authority had duly issued notice to the Petitioner. There is no denial to the fact that the Petitioner did not receive the said notice wherein the date was fixed on 17.01.2024. However, the Petitioner having not appeared, the Adjudicating Authority disposed of the said proceedings by passing the impugned order. In the opinion of this Court, this is not a case of failure of natural justice thereby to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution. Taking into account that the petitioner has a remedy available under the Finance Act, 1994 to prefer an appeal against the said order dated 28.02.2024, this Court is not inclined to entertain the instant writ petition under Article 226 of the Constitution.

3. Be that as it may, taking into account that there is a limitation prescribed for filing the appeal within a particular period of time i.e. 60 days from the date of the receipt of the impugned order dated 28.02.2024, this Court for the ends of justice enlarges the said period of limitation taking into account the pendency of the instant writ petition thereby permits the Petitioner to file the appeal within 30 days from the date of the instant order.
4. With above observations and directions, the instant writ petition stands disposed of.
5. Interim order passed on 22.05.2024 stands vacated.

JUDGE

Comparing Assistant