

GAHC010100092024



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

Case No. : WP(C)/2670/2024

M/S POWERLINE INDUSTRIES
HAVING THEIR BUSINESS AT IID CENTRE NALTALI, AIDC BUILDING, NH-
37A, NALTALI, P.O. BHOMORAGURI, SILGHAT, NAGAON, ASSAM- 782143
AND REPRESENTED BY MINAKSHI MAHANTA, AGED ABOUT 59 YEARS,
DAUGHTER OF MAHENDRA NATH MAHANTA, PHONE- 9864208079

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, NORTH BLOCK,
NEW DELHI- 110001

2:THE PRINCIPAL COMMISSIONER
CENTRAL GOODS AND SERVICE TAX AND CENTRAL EXCISE
GST BHAWAN
KEDAR ROAD
GUWAHATI-781001

3:THE ASSISTANT COMMISSIONER OF TAXES
CENTRAL GOODS AND SERVICE TAX AND CENTRAL EXCISE
GST BHAWAN
KEDAR ROAD
GUWAHATI-781001

4:THE SUPERINTENDENT OF CGST
NAGAON RANGE
R.K. ROAD
NAGAON- 782001
ASSA

For the petitioner (s) : Mr. D. Saraf, Advocate

For the respondent (s) : Ms. M. Deka, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

22.07.2024

Heard Mr. D. Saraf, the learned counsel appearing on behalf of the petitioner. None appears on behalf of the CGST on call.

2. The instant writ petition has been filed by the petitioner challenging the notice dated 23.02.2024 whereby the Superintendent, CGST, Nagaon Range has asked the petitioner to submit an explanation as to why the ITC amounting to Rs.17,81,171/- which was availed by the petitioner after due date should not be returned to the Department.

3. Mr. D. Saraf, the learned counsel for the petitioner submits that once the audit has already been carried out by the Assistant Commissioner of CGST, the question of issuance of a notice dated 23.02.2024 does not arise. He further submits as regards the instructions issued by the Principal Commissioner of State Tax, Assam dated 26.12.2023 and draws special reference to Clauses 1 & 3 of the said instructions.

4. This Court is of the opinion that these aspects of the matter could have been very well brought to the notice of the concerned respondent authorities, i.e. Superintendent, CGST, Nagaon Range by submitting a reply to the notice dated 23.02.2024.

5. Accordingly, the instant writ petitioner stands disposed of thereby

granting 10 (ten) days time from today to the petitioner to submit the reply against the notice dated 23.02.2024 highlighting the grounds in which the notice could not have been issued as well as instructions No.13/2023-GST dated 26.12.2023. It is however observed that in the circumstance the petitioner is aggrieved by any action taken by the concerned authority, the petitioner would be able to avail such remedies which have been duly provided in accordance with law.

6. The interim order passed on 22.05.2024 stands vacated.

JUDGE

Comparing Assistant