

GAHC010102762024



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

Case No. : WP(C)/2886/2024

M/S BHAWANI MARKETING PVT. LTD.
A COMPANY INCORPORATED UNDER THE PROVISIONS OF THE
COMPANIES ACT, 1956,
AND HAVING ITS REGISTERED OFFICE AT SHIMA PLAZA, 3RD FLOOR,
ULUBARI CHARIALI, GUWAHATI, ASSAM- 781007
AND IN THE PRESENT PROCEEDINGS IS BEING REPRESENTED BY ONE OF
ITS DIRECTOR
SRI CHHOTE NARAIN SINHA.

VERSUS

UNION OF INDIA AND 4 ORS.
REPRESENTED BY THE SECRETARY,
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
NORTH BLOCK, CENTRAL SECRETARIAT,
NEW DELHI- 781006.

2:THE COMMISSIONER (APPEALS)
CGST
CENTRAL EXCISE AND CUSTOMS
HAVING ITS OFFICE AT 3RD FLOOR

GST BHAWAN
KEDAR ROAD
MACHKHOWA

GUWAHATI- 781001.

3:THE DEPUTY COMMISSIONER (AUDIT)
GST AND CENTRAL EXCISE
AUDIT COMMISSIONERATE

GST BHAWAN

KEDAR ROAD
MACHKHOWA
GUWAHATI- 781001.

4:THE ASSISTANT COMMISSIONER
GST AND CENTRAL EXCISE
GUWAHATI-I DIVISION
2ND FLOOR
GST BHAWAN

KEDAR ROAD
MACHKHOWA
GUWAHATI- 781001

For the Petitioner(s) : Mr. P. Das, Advocate

For the Respondent(s) : Mr. S. C. Keyal, Standing Counsel

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 02.09.2024

Heard Mr. P. Das, the learned counsel appearing on behalf of the Petitioner and Mr. S. C. Keyal, the learned Standing Counsel appearing on behalf of the CGST.

2. The Petitioner herein has challenged the order-in-original dated 28.03.2022 on the ground that the Petitioner could not appear in the personal hearing so provided to the Petitioner as the notice dated 18.02.2022 was received on 10.03.2022 much after the dates which were fixed by the Superintendent of Audit Commissionerate (CGST).

3. Be that as it may, it has been fairly submitted that against the order

dated 28.03.2022, the Petitioner had preferred an appeal before the First Appellate Authority i.e. the Commissioner (Appeals), Customs, CGST and Central Excise. However the said appeal has been dismissed on the ground of limitation.

4. Taking into account that the said order dated 28.03.2022 has already attained finality in view of the dismissal of the appeal and unless the said order by which the said appeal was dismissed is not set aside, it would not be proper on the part of this Court to exercise the jurisdiction under Article 226 of the Constitution.

5. Accordingly, this Court dismisses the instant petition on the ground of not being entertained without touching on the merits. The Petitioner if so aggrieved by the order by which the appeal has been dismissed, would be at liberty to avail other remedies provided under the CGST Act, 2017 and in such proceedings, the Petitioner would also be at liberty to take such grounds including the ground of not receiving the notice of personal hearing on time.

6. The dismissal of the instant writ petition on the ground that this Court does not find it to be a fit case for entertaining the writ petition would not prejudice the Petitioner in such proceedings if so filed as per the extant law.

7. Interim order passed earlier stands vacated.

JUDGE