

GAHC010123922022



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

Case No. : WP(C)/4262/2022

M/S KANARK ENTERPRISE PRIVATE LTD.
A PRIVATE LIMITED COMPANY, REGISTERED UNDER THE COMPANIES
ACT, 1956 HAVING ITS REGISTERED OFFICE AT T.R. PHOOKAN ROAD,
BONGAIGAON- 783380, ASSAM AND IS REPRESENTED BY OE OF ITS
DIRECTORS, SHRI HRIDAYANANDA ROY CHOUDHURY, AGED ABOUT 59
YEARS.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EXCISE DEPARTMENT, DISPUR, GUWAHATI-6,
ASSAM.

2:THE COMMISSIONER OF EXCISE
ASSAM
HOUSE FED COMPLEX
DISPUR
GUWAHATI-6
ASSAM.

3:THE SUPERINTENDENT OF EXCISE
BONGAIGAON
ASSAM

For the petitioner (s) : Mr. N. K. Kalita, Advocate

For the respondent (s) : None appears

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

31.07.2024

Heard Mr. N. K. Kalita, the learned counsel appearing on behalf of the petitioner. None appears on behalf of the Excise Department on call.

2. The instant writ petition has been filed by the petitioner challenging the imposition of establishment charges and the impugned notices dated 27.10.2021; 04.12.2021 and 27.01.2022. It has been brought to the attention of this Court that this Court had vide the judgment and order dated 09.05.2023 passed in WP(C) No.4575/2021 (***M/S Barak Warehouse Pvt. Ltd. & Another vs. the State of Assam & 2 Others***) had held that the petitioners therein were liable to pay the establishment charges in terms with Clause 9 of the order dated 29.08.2016 till payment of the ad valorem excise duty as well as VAT on the basis of the orders passed by the authorities in terms with Clause 3 of the office order dated 29.08.2016 are not paid or such amount so demanded are not set aside in accordance with law. In addition to that, the respondent Excise Department was also given the liberty to take such action as deem fit for realizing the establishment cost.

3. Taking into account that the issue involving in the instant writ petition is similar, this Court also dismisses the instant writ petition thereby holding that the petitioner herein is liable to pay the establishment charges in terms with Clause-9 of the order dated 29.08.2016 till payment of the ad valorem excise duty as well as the VAT on the basis of the orders passed by the authorities in terms with Clause-3 of the office order dated

29.08.2016 are not paid or such amounts so demanded are not set aside in accordance with law. In addition to that, the respondent authorities would also be at liberty to take appropriate action as per the provisions of law for realization of the establishment charges.

4. In view of the above, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant