

GAHC010128292024



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

Case No. : WP(C)/3292/2024

FABTECH PROJECTS AND ENGINEERS LTD
A COMPANY INCORPORATED UNDER THE PROVISION OF THE
COMPANIES ACT-1956 HAVING ITS REGD OFFICE SITUATED AT OFFICE 4,
LEVEL-7, M AGILE , BANER ROAD, BANER PUNE , MAHARASHTRA,
INDIA-411045 AND HAVING ITS BRANCH LOCATED AT COLLEGE NAGAR,
P.S- CHANGSARI, NORTH GUWAHATI, ABHOYPUR, PIN-781031, DIST-
KAMRUP(M), ASSAM

VERSUS

STATE OF ASSAM AND THREE ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, FINANCE (TAXATION) DEPARTMENT, DISPUR,
GUWAHATI

2:COMMISSIONER OF STATE TAXES
(EARLIER KNOWN AS COMMISSIONER OF TAXES)
ASSAM
KAR BHAWAN
DISPUR
GUWAHATI-06

3:THE DEPUTY COMMISSIONER
OF STATE TAXES

GUWAHATI B-10
GUWAHATI-B
GUWAHATI-ZONE
ASSAM
PIN-781028

4:THE ASSISTANT COMMISIONER

OF STATE TAXES

GUWAHATI B-10
GUWAHATI-B
GUWAHATI-ZONE
ASSAM
PIN-78102

Advocate for the Petitioner : BARANYAMOY SARMA

Advocate for the Respondent : SC, FINANCE AND TAXATION

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

26.07.2024

1. Heard Dr. A Saraf, learned Senior counsel assisted by Mr. HJ Saikia, learned counsel for the petitioner. Also heard Mr. B Gogoi, learned standing counsel for the Finance and Taxation Department.
2. The writ petition is filed with a limited prayer to the effect that the adjudicatory process pursuant to show cause notice dated 22.06.2022 issued by the respondent authorities should be completed by a speaking order as mandated under Section 73/74 of the CGST Act inasmuch as the petitioner had already filed reply to such show cause notice on 07.07.2022. Thereafter, the petitioner also issued a reminder on 16.02.2024.
3. The background fact of the present case is that the petitioner submitted a claim of refund in accordance with Section 49(6) and Section 54 of the CGST Act, 2017 claiming refund of excess balance in electronic cash ledger. Such claim was rejected and the show cause notice was issued on 22.06.2022 by the authorities calling upon the petitioner to show cause as to why refund claim of the petitioner should not be rejected. Accordingly, the petitioner has filed his reply to the show cause dated 22.06.2022.

4. In terms of Section 74 of the CGST Act, an adjudication notice is to be determined by a speaking order and such order is appealable order, initially before the Commissioner of Appeal and thereafter before the Appellate Tribunal.

5. In the aforesaid backdrop, Mr. B Gogoi, learned standing counsel submits that he has instruction to submit that the aforesaid adjudication process shall be concluded at the earliest.

6. Therefore, in view of the aforesaid, the present writ petition stands disposed of directing the competent adjudicating authority to decide the adjudication process initiated by show cause dated 22.06.2022 and thereafter the adjudicating authority shall pass a speaking order in terms of CGST Act. Such exercise shall be completed by the authority within a period of four weeks from the date of receipt of certified copy of this order to be furnished by the petitioner before the adjudicating authority.

JUDGE

Comparing Assistant