

GAHC010145282024



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

Case No. : WP(C)/3712/2024

KANCO TEA AND INDUSTRIES LIMITED
A COMPANY INCORPORATED UNDER THE PROVISIONS OF THE
COMPANIES ACT, 1956 HAVING ITS REGISTERED OFFICE AT GROUND, 1,
MACKEYPORE TEA ESTATE FACTORY, NAZIRA, MACKEYPORE,
SIVASAGAR, ASSAM-785685 AND IN THE INSTANT PROCEEDING IS BEING
REPRESENTED BY SHRI UMANG KANORIA, THE MANAGING DIRECTOR
OF THE PETITIONER COMPANY.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REPRESENTED BY THE SECRETARY, MINISTRY OF FINANCE, HAVING HIS
OFFICE AT 137, NORTH BLOCK, NEW DELHI- 110001.

2:THE SENIOR INTELLIGENCE OFFICER

DIRECTORATE GENERAL OF GST INTELLIGENCE
JAMSHEDPUR REGIONAL UNIT
2ND AND 3RD FLOOR
SHAURYA TRADE CENTRE
159
DHALBHUM ROAD SAKCHI
JAMSHEDPUR
JHARKHAND-831001.

3:THE SENIOR INTELLIGENCE OFFICER
DIRECTORATE GENERAL OF GST INTELLIGENCE
GUWAHATI ZONAL UNIT
H/NO. 77
RUPKONWAR JYOTI PRASAD AGARWALA ROAD
OPPOSITE SRIMANTA SANKARDEVA KALASHETRA
P.O.PANJABARI
GUWAHATI
ASSAM

PIN- 781037.

4:THE SUPERINTENDENT OF CGST

SONARI RANGE
GOVT. OF INDIA
NAMTOLA ROAD
NEAR SHANI TEMPLE
P.O. SONARI
DIST. CHARAIDEO
ASSAM-785690.

5:THE ASSISTANT COMMISSIONER OF TAXES

SIVASAGAR UNIT
GOVT. OF ASSAM
BORPUKHURI PAR ROAD
BEHIND CLUB
SIVASAGAR
ASAM-785640.

6:THE STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO TE
GOVERNMENT OF ASSAM
DEPARTMENT OF FINANCE AND TAXATION
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006

For the Petitioner(s) : Mr A. Kanodia, Advocate
: Mr. P. Das, Advocate
For the Respondent(s) : Mr. S. C. Keyal, Standing Counsel
: Mr. B. Gogoi, Standing Counsel

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 10.09.2024

Heard Mr. A. Kanodia, the learned counsel appearing on behalf of the Petitioner and Mr. S. C. Keyal, the learned Standing counsel appearing on behalf of the Respondent Nos. 1, 2, 3 and 4. I have also heard Mr. B. Gogoi, the

learned Standing counsel appearing on behalf of the Respondent Nos. 5 and 6.

2. The Petitioner herein has challenged the summons dated 21.06.2024 and 05.07.2024 on the ground that the Respondent State Authorities have already made the investigation in respect to the transactions pertaining to M/s Ridhi Industries and M/s Amazonite Steel Private Ltd. and as such the Central Authorities i.e. the Respondent No.3 does not have the jurisdiction in view of Section 6(2) of the Central Goods and Service Tax, Act, 2017.

3. It is the specific case of the Petitioner that there cannot be two parallel proceedings. This Court vide an order dated 26.07.2024 had issued notice thereby asking the Respondent No.3 to apprise this Court as to whether the summons which have been impugned in the instant proceedings are in respect to the same subject matter for which the State Unit have already investigated upon. In addition to that, the Respondent No.5 who is an Officer of the State Unit was also directed to apprise this Court as to whether the impugned summons relate to the same investigation which was carried out as per the report submitted vide Annexure-9 to the writ petition.

4. When the matter was listed on 30.08.2024, Mr. S. C. Keyal, the learned Standing counsel for the CGST submitted that the matter of availment of the utilization of irregular and inadmissible ITC from M/s Ridhi Industries and M/s Amazonite Steels Pvt. Ltd. were under investigation with the State GST and if approved, the same would be closed at the end of the Central Authorities as per the provisions of Section 6(2) of the CGST Act, 2017 to avoid parallel investigation in the same matter. The learned Standing counsel further submitted that in respect to the investigation relating to ITC of Rs.19,04,328/- from M/s IESA Sales Private Ltd. during 2020-21 after cancellation of the GST registration, no other authority except the DGGI, Guwahati Zonal unit have

initiated investigation as per the documents available. He further submitted that the investigation in respect of M/s IESA Sales Private Limited ought to be allowed to be continued.

5. This Court also takes note of that on 30.08.2024, the learned counsel for the Petitioner submitted that the Petitioner has no objection in the investigation so carried out in respect to M/s IESA Sales Private Ltd. During the course of the hearing, the learned counsel for the Petitioner had also placed before this Court an instruction issued by the Assistant Commissioner of State Taxes, Sivasagar to the Deputy Director, Directorate General of GST Intelligence dated 09.08.2024 wherein it has been mentioned that the Input Tax Credit availed by the Petitioner in respect to the parties namely M/s Ridhi Industries and M/s Amazonite Steels Private Ltd. are genuine and eligible. This Court therefore directed the Petitioner to file an additional affidavit in regard to their submissions and bring on record the said document dated 09.08.2024. In addition to that, this Court had also asked Mr. B. Gogoi, the learned counsel for the Respondent Nos. 5 and 6 to verify the contents of the communication dated 09.08.2024 and make appropriate submission.

6. Pursuant to the order dated 30.08.2024, the Petitioner has filed an affidavit whereby the communication dated 09.08.2024 issued by the Assistant Commissioner of State Taxes, Sivasagar have been enclosed as Annexure-A.

7. Today, this Court heard Mr. A. Kanodia the learned counsel for the Petitioner who reiterated his submission that the Petitioner has no objection in the question of the investigation so carried out in respect to M/s IESA Sales Pvt. Ltd. Mr. S. C. Keyal, the learned Standing counsel for the Respondent Nos. 1 to 4 reiterated his submissions so made on 30.08.2024. Mr. B. Gogoi, the learned Standing counsel for the Respondent Nos. 5 and 6 also submitted that the

document enclosed as Annexure-A to the additional affidavit filed by the Petitioner is a document issued by the State Authorities.

8. In view of the above statements and submissions so made, this Court disposes of the instant writ petition with the following observations and directions.

The Respondent No.3 shall be at liberty to carry out the investigation in pursuance to the summons issued on 21.06.2024 and 05.07.2024 insofar as M/s IESA Sales Pvt. Ltd. However, in view of the communication dated 09.08.2024 reference to which have been made hereinabove and the submissions so made by the learned Standing counsel for the CGST, the Respondent Authorities more particularly the Respondent No.3 shall not carry out any further investigation in respect to such transaction of the Petitioner with M/s Ridhi Industries and M/s Amazonite Steels Private Ltd. in respect to the period on the basis of which communication dated 09.08.2024 has been issued.

JUDGE

Comparing Assistant