

GAHC010156152024



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

Case No. : WP(C)/3964/2024

MEGA ALLOYS
A PARTNERSHIP FIRM REGISTERED UNDER THE PARTNERSHIP ACT 1932,
THROUGH ITS PARTNER
MAHESH KHATUWALA,
S/O- GAURI SHANKAR KHATUWALA,
HAVING ITS OFFICE AT -
SHREE SHYAM MARKET,
SATI JAYMATI ROAD, ATHGAON, GUWAHATI-01, ASSAM

VERSUS

UNION OF INDIA AND 3 ORS
THROUGH THE SECRETARY , MINISTRY OF FINANCE , DEPARTMENT OF
REVENUE, GOVT. OF INDIA, NEW DELHI-01

2:PRINCIPAL COMMISSIONER OF INCOME TAX
INCOME TAX DEPARTMENT

AYAKAR BHAWAN GS ROAD GUWAHATI
KAMRUP(M)
ASSAM - 781005

3:NATIONAL FACELESS APPEAL CENTRE
(NFAC)
INCOME TAX DEPARTMENT
NEW DELHI-01
THROUGH THE COMMISSIONER OF INCOME TAX (APPEALS)

4:INCOME TAX OFFICER
WARD NO-2 (2)
AYAKAR BHAWAN GS ROAD GUWAHATI
KAMRUP(M)
ASSAM - 78100

Advocate for the Petitioner(s) : Mr. A. Ganguly

Advocate for the Respondent(s): Mr. S. C. Keyal, SC, Income Tax Department

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 30.08.2024

Heard Mr. A. Ganguly, the learned counsel appearing on behalf of the petitioner. Mr. S. C. Keyal, the learned Standing Counsel appears on behalf of the Income Tax Department.

2. The petitioner in the instant writ petition has approached this Court being aggrieved by the delay in disposal of the appeals filed in respect to the assessment year 2020-21 and 2018-19.

3. The case of the petitioner herein is that the petitioner being aggrieved by the assessment orders passed in respect to the assessment years 2020-21 and 2018-19 have filed two appeals on 18.10.2022 and 10.04.2023 respectively. The total demand in the said appeals is Rs. 5,76,70,814/-. Admittedly there is no stay to the said demand by the first Appellate Authority. The grievance of the petitioner in so far as the appeal filed on 18.10.2022 is that in terms with Section 250(6A) of the Income Tax Act, 1961, the Commissioner (Appeals) is required to dispose of and decide the said appeal within one year from the end of the financial year in which such appeal is filed. It is the case of the petitioner that as regards the said appeal, the financial year ending would be 31.03.2023 and as such the appeal filed on 18.10.2022 ought to have been disposed of on or before 31.03.2024.

4. As regards the other appeal filed on 10.04.2023, the learned counsel drew the attention of this Court to the guidelines dated 07.03.2024 issued by the Government of India Ministry of Finance (Department of Revenue Central Board of Direct Taxes), wherein it has been mentioned that cases having a demand of more than 1 Cr. on the basis of a recommendation issued by the Pr. CIT/Pr.CIT(Central)/ CIT(IT), can be expeditiously heard. In that regard the learned counsel appearing on behalf of the petitioner referred to the representation submitted on 14.09.2023 to the Principal CIT. It is the case of the petitioner that no recommendation has been issued.

5. Vide the order dated 09.08.2024, this Court directed that the Standing Counsel of the Income Tax Department to obtain instruction(s) as to whether those appeals filed by the petitioner referred to above have been disposed of or if not when such appeals can be at the earliest disposed of.

6. Mr. S.C. Keyal, the learned counsel appearing on behalf of the Income Tax Department placed before this Court an instruction dated 22.08.2024 issued by the Income Tax Officer, Ward-2(2), Guwahati which is kept on record and marked with the letter 'X'. From the said document kept on record as 'X', it is seen that there is a request being made by the Income Tax Officer, Ward-2(2), Guwahati to the Principal Commissioner of Income Tax, Guwahati for giving a priority to the disposal of the Appeals filed by the petitioner.

7. This Court also during the course of hearing enquired with the learned counsel appearing on behalf of the petitioner as to whether the written arguments have already been filed on behalf of the petitioner in both the appeals. Mr. A. Ganguly, the learned counsel submitted that the written arguments have been duly filed.

8. Under such circumstances, this Court is of the opinion that there should not be any difficulty on the part of the First Appellate Authority to decide the Appeals at the earliest more so, taking into account the mandate of Section 250(6A) of the Income Tax Act, 1961 and the guidelines dated 07.03.2024.

9. In that view of the matter, this Court directs the Principal Commissioner of Income Tax, Guwahati to ensure that the Appeals filed by the petitioner for the assessment years 2020-21 and 2018-19 on 18.10.2022 and 10.04.2023 respectively are disposed of within a period of 3(three) months from today.

10. Mr. S.C. Keyal, the learned Standing Counsel Income Tax shall duly intimate the Principal Commissioner of Income Tax Department, Guwahati for doing the needful in terms with the above directions.

11. This Court also duly takes note of that till date no recovery have been made and as this Court had specifically directed the Principal Commissioner of Income Tax, Guwahati to ensure that the Appellate Authority disposes of the Appeals within 3(three) months from today, it would be in the interest of justice that till the disposal of the Appeals, no coercive measures be taken against the

petitioner in respect to the demands which are the subject matter of both the Appeals

12. With the above observation(s) and direction(s) the instant writ petition stands disposed of.

JUDGE

Comparing Assistant