

GAHC010165542024



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

Case No. : WA/280/2024

HOTEL ATHITHI
(UNIT OF ROYAL MISSION CONSTRUCTION PVT LTD) A COMPANY
REGISTERED UNDER THE COMPANIES ACT 1956, HAVING ITS
REGISTERED OFFICE AT SITUATED AT A.K. AZAD ROAD OPPOSITE OF
NEPALI MANDIR, PALTAN BAZAR, GUWAHATI 781008.

VERSUS

THE UNION OF INDIA AND 2 ORS
REPRESENTED BY THE SECRETARY OF GOVERNMENT OF INDIA,
MINISTRY OF FINANCE NEW DELHI-110001

2:THE PRINCIPAL COMMISSIONER
CENTRAL GOODS AND SERVICES TAX
GST BHAWAN
KEDAR ROAD
KAMRUP(M)
ASSAM
781001

3:THE ASSISTANT COMMISSIONER
CENTRAL GOODS AND SERVICES TAX
GUWAHATI-II DIVISION
GUWAHAT

Advocate for the Petitioner : MR. R S MISHRA, MR. A K GUPTA, MS M NIROLA

Advocate for the Respondent : DY.S.G.I., SC, GST

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 21-08-2024

(Vijay Bishnoi, CJ)

This Writ Appeal is filed by the appellant, being aggrieved with the order dated 24.07.2024, passed by the learned Single Judge in WP(C) No.2644/2024.

2. The appellant has approached the Writ Court challenging the order dated 28.02.2024, whereby the Assistant Commissioner of GST and Central Excise has passed an order, thereby confirming the demand of the Service Tax and also directed that interest as well the penalty be paid as adjusted therein.

3. It was the case of the appellant before the learned Single Judge that a show cause notice was issued to him on 22.10.2021 and in response to the same, the petitioner has submitted a reply on 27.03.2023 and he was heard on 29.03.2023. Thereafter, the adjudicating authority changed and new adjudicating authority has issued another notice to the appellant. It is the admitted case of the appellant that though the notice was received by the appellant, wherein the date was fixed as 17.01.2024, but the appellant has failed to appear on the said date and the adjudicating authority has passed the impugned order.

4. The learned Single Judge, after taking into consideration the arguments made on behalf of the appellant, has opined that the case of the appellant is not a case of failure of natural justice, which necessitate invocation of the extraordinary jurisdiction of this Court, under Article 226 of the Constitution of India. The learned Single Judge has further opined that the appellant has a remedy available under the Finance Act, 1994, to prefer an Appeal against the impugned order dated 28.02.2024 and therefore, the Court was not inclined to

entertain the said Writ Petition under Article 226 of the Constitution of India. The learned Single Judge has further observed that though there is a limitation prescribed in filing the Appeal, within a particular period of time i.e. sixty (60) days from the date of receipt of the order impugned, ends of justice would met, if the said period of limitation be relaxed and the appellant is permitted to file Appeal within thirty (30) days, from the date of the order.

5. Having heard the learned counsel for the parties and after going through the materials available on record, we do not find any case for interference. Hence, the Writ Appeal is dismissed.

6. However, the appellant is further granted thirty (30) days time from today, to file the Appeal before the Appellate Authority, as directed by the learned Single Judge.

JUDGE

CHIEF JUSTICE

Comparing Assistant