

GAHC010204742024



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

Case No. : Review.Pet./184/2024

M/S RIVER VALLEY TEA COMPANY PVT LTD AND ANR
A COMPANY INCORPORATED UNDER THE PROVISIONS OF THE
COMPANIES ACT 1956, HAVING ITS REGISTERED OFFICE AT THANA
ROAD, P.O. and DIST. TINSUKIA, ASSAM AND ITS HEAD OFFICE AT
BISHMILE, PO CHABUA, DIST DIBRUGARH, ASSAM, REP. BY ITS
DIRECTOR, SRI MAHENDRA KUMAR AGARWALLA SON OF LT.
PARSHURAM AGARWALLA R/O BISHMILE, P.O. CHABUA DIST.
DIBRUGARH, ASSAM.

2: SRI MAHENDRA KUMAR AGARWALLA
DIRECTOR
RIVER VALLEY TEA COMPANY PVT. LTD.
S/O LT. PARSHURAM AGARWALLA R/O BISHMILE
P.O. CHABUA DIST. DIBRUGARH
ASSAM 78618

VERSUS

THE TEA BOARD AND 3 ORS
REP. BY THE CHAIRMAN, MINISTRY, GOVT. OF INDIA, 14 B.T.M. SARANI
BRABOURNE ROAD KOLKATA- 700001.

2:THE DIRECTOR
TEA DEVELOPMENT TEA BOARD OF INDIA
14 B.T.M. SARANI BRABOURNE ROAD KOLKATA- 700001.

3:THE EXECUTIVE DIRECTOR
TEA BOARD
MINISTRY OF COMMERCE AND INDUSTRY
GOVT.OF INDIA
NORTH-EAST ZONL OFFICE
5TH and 6TH FLOOR HOUSEFED COMPLEX
CENTRAL BLOCK BELTOLA BASISTHA ROAD
DISPUR GUWAHATI- 781006.

4:THE DEPUTY DIRECTOR
TEA BOARD
MINISTRY OF COMMERCE AND INDUSTRY
GOVT. OF INDIA
NORTH-EAST ZONAL OFFICE
5TH and 6TH FLOOR
HOUSEFED COMPLEX
CENTRAL BLOCK
BELTOLA BASISTHA ROAD
DISPUR GUWAHATI - 781006

Advocate for the Petitioner : MR JITENDRA DAS, MR. BHASKAR DUTTA, SENIOR
ADVOCATE,MS L RONGPIPI,MR. SAILENDRA DEKA

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

Linked Case : WP(C)/6359/2016

M/S. RIVER VALLEY TEA COMPANY PRIVATE LIMITED and ANR.
HAVING ITS REGISTERED OFFICE AT THANA ROAD
P.O. and DIST. TINSUKIA
ASAM-786125
REP. BY ITS DIRECTOR
SRI MAHENDRA KUMAR AGARWALLA SON OF LT. PARSHURAM
AGARWALLA R/O BISHMILE
P.O. CHABUA DIST. DIBRUGARH
ASSAM.

2: SRI MAHENDRA KUMAR AGARWALLA
S/O LT. PARSHURAM AGARWALLA R/O BISHMILE
P.O. CHABUA DIST. DIBRUGARH
ASSAM EMPLOYED AS DIRECTOR
RIVER VALLEY TEA COMPANY PVT. LTD.

VERSUS

TEA BOARD OF INDIA and 3 ORS
REP. BY THE CHAIRMAN
MINISTRY GOVT. OF INDIA
14 B.T.M. SARANI BRABOURNE ROAD KOLKATA- 700001.

2:THE DIRECTOR
TEA DEVELOPMENT
TEA BOARD OF INDIA
14
B.T.M. SARANI BRABOURNE ROAD

KOLKATA- 700001.

3:THE EXECUTIVE DIRECTOR
TEA BOARD OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
GOVT.OF INDIA
NORTH-EAST ZONL OFFICE
5TH and 6TH FLOOR
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CENTRAL BLOCK
BELTOLA BASISTHA ROAD
DISPUR GUWAHATI- 781006.

4:THE DEPUTY DIRECTOR
TEA DEVELOPMENT
TEA BOARD OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
GOVT. OF INDIA
NORTH-EAST ZONAL OFFICE
5TH and 6TH FLOOR
HOUSEFED COMPLEX
CENTRAL BLOCK
BELTOLA BASISTHA ROAD
DISPUR GUWAHATI - 781006.

Advocate for : MR.T N SRINIVASAN
Advocate for : MR. S C KEYAL appearing for TEA BOARD OF INDIA and 3 ORS

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 23.10.2024

Heard Mr. Bhaskar Dutta, learned Senior counsel for the review petitioners, who submits that the order dated 29.08.2024 passed in WP(C) 6359/2016 should be recalled, inasmuch as the order passed had been made due to a wrong submission made by the learned counsel for the review petitioners at the time of disposal of the writ petition. He submits that the stand of the review petitioners' counsel at the time of disposal of the writ petition was

wrong, as Clause C(3) of the Tea Development & Promotion Scheme was not applicable to the case of the review/writ petitioners. He submits that the applicable clause is in fact Clause C(11).

2. The review petitioners' counsel submits that there is no infirmity with the reasoning of this Court in the order dated 29.08.2024, wherein this Court has rightly held that the review petitioners were not entitled to any subsidy, in terms of the XII Scheme, due to the wrong submission made by the counsel for the review/writ petitioners, at the time of disposal of the writ petition. However, the fact is that the work in question for availing the subsidy under the XI Scheme started during the validity of the XI Scheme. The XI Scheme was thereafter replaced by the XII Scheme from 10.12.2014. As the petitioner had started his work under the XI Scheme and as Clause C(11) of the XII Scheme provided that the replanting in all cases should be completed within 36 months from the completion of uprooting, the petitioners were entitled to the grant of subsidy under the XII Scheme, as the replanting had been completed on 10.04.2015, i.e., within 36 months, though the same started during the validity of the XI Scheme.

3. This Court is finding it difficult to understand as to how the petitioners would be entitled to the subsidy provided under the XII Scheme, when the petitioners had applied for grant of subsidy as per the XI Scheme, vide letter dated 23.11.2012 in respect of Section 25(P) and Section 16 of the Tea Garden. Further, the Tea Board of India, vide letter dated 12.12.2012 had given No Objection Certificate to the petitioners, for commencing the uprooting of the tea bushes in respect of Section 16 and Section 25(P) of the Tea Garden. As the petitioners had started their work for availing the subsidy under the XI Scheme,

during the validity of the XI Scheme, the petitioners would have to show that they were entitled to be given the benefit of subsidy under the XII Scheme, in terms of the provision of the XI and XII Scheme, only because they completed the replanting, after the XI Scheme had been replaced by the XII Scheme. However, the petitioners have not been able to show the said provision to this Court, as to how the petitioners were entitled to be given subsidy under the XII Scheme, just because the petitioners completed the scheme after the XI Scheme had been replaced by the XII Scheme.

4. In the case of ***Sanjay Kumar Agarwal vs. State Tax Officer*** reported in **(2024) 2 SCC 362**, the Supreme Court has given the gist of the various decisions of the Supreme Court with regard to the scope of review under Section 114 read with Order 47 CPC.

5. The Supreme Court in the above case has held in para 16 as follows:-

“16. The gist of the afore-stated decisions is that:

16.1. A judgment is open to review inter-alia if there is a mistake or an error apparent on the face of the record.

16.2. A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

16.3. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.

16.4. In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected."

16.5. A Review Petition has a limited purpose and cannot be allowed to be "an appeal in disguise."

16.6. Under the guise of review, the petitioner cannot be permitted to

reagitate and reargue the questions which have already been addressed and decided.

16.7. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

16.8. Even the change in law or subsequent decision/judgment of a co-ordinate or larger Bench by itself cannot be regarded as a ground for review."

6. As can be seen from the above, a judgment is open to review *inter-alia*, if there is a mistake or an error apparent on the face of the record. Further, an error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of record, justifying the Court to exercise its power of review. Further, an erroneous decision cannot be reheard and corrected. Also a review cannot be allowed to be an appeal in disguise.

7. The above being said, even as per new ground taken by the review petitioners' counsel, this Court does not find any error in the impugned order.

8. In view of the reasons stated above, this Court finds that no grounds have been made out to review the impugned order dated 29.08.2024. Accordingly, the review petition is dismissed.

JUDGE

Comparing Assistant