

GAHC010284372023



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

Case No. : WP(C)/7424/2023

M/S KEC INTERNATIONAL LTD (FORMERLY RPG TRANSMISSION LTD)
REP. BY ASHISH ROY CHOWDHURY, SENIOR MANAGER, ADDRESS 3RD
FLOOR, FLAT NO. B. CRYSTAL GROVE, B.B. SAIKIA ROAD, BELTOLA,
GUWAHATI, KAMRUP METROPOLITAN, ASSAM, PIN-781001

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP.BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
FINANCE DEPARTMENT, GROUND FLOOR, F BLOCK, JANATA BHAWAN
DISPUR, ASSAM-781006

2:THE COMMISSIONER OF TAXES

ASSAM
THROUGH COMMISSIONER OF TAXES
KAR BHAWAN
GANESHGURI DISPUR
GUWAHATI-781006

3:THE DEPUTY COMMISSIONER OF TAXES

GUWAHATI ZONE C
KAR BHAWAN
G.S. ROAD
DISPUR
GUWAHATI-78100

Advocate for the Petitioner(s):Mr. B. Raichandani

Advocate for the Respondent(s):Mr. B. Choudhury

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 06.09.2024

Heard Mr. B. Raichandani, the learned counsel appearing on behalf of the petitioner. Mr. B. Choudhury, the learned counsel appears on behalf of the respondent Nos. 1,2 & 3.

2. From the materials on record it has been admitted by the respondent authorities that the petitioner is entitled to a total amount of Rs. 37,87,116/- as refund in respect to the assessment years 1993-94, 1995-96 and 1998-99. The breakup of the said amount is herein under

(i) 1993-94	-	Rs, 15,07,180/-
(ii) 1995-96	-	Rs. 11,68,732/-
(iii) and 1998-99	-	Rs. 11,11,254/-
Total	-	Rs. 37,87,166/-

As stated above, there is no dispute to the fact that the petitioner is entitle to the said amount from the year 2005 as is apparent from the records.

However, in the affidavit so filed by the Deputy Commissioner of Taxes on behalf of the respondent No. 2 on 27.08.2024, it has been stated that the amounts could not be paid to the petitioner as the officials of the Finance & Taxation Department of the Government of Assam has lost the files pertaining to the refund applications.

3. It has also been mentioned that the files have now been reconstructed, pursuant to the filing of the instant writ petition and the same has already been processed and forwarded to the Government of Assam by the communication Bearing No. CTS-151/2023/2022 dated 13.02.2024 for approval.

4. Mr. B. Raichandani, the learned counsel appearing on behalf of the petitioner however submits that the stands so taken in the affidavit that the file has been misplaced for which there was a requirement for reconstruction of the files is nothing but after thought to wriggle out of the statutory interest to which the petitioner is entitled to as per law. The learned counsel appearing on behalf of the petitioner further drew the attention of this Court to the various communications which have been written to the respondent authorities which is not less than 15 (fifteen) in number but the respondent authorities have never responded to the petitioner stating that the file could not be located or requesting the petitioner to submit necessary documents for reconstruction of the files. The learned counsel for the petitioner submits that the plea to the effect that the files were misplaced and had to be reconstructed does not appear to be bonafide.

5. I have heard the learned counsels appearing on behalf of the parties and

has given my anxious consideration.

6. From the materials on record, it is apparent that the petitioner herein is entitled to the total amount of Rs. 37,87,166/- on account of refunds for the assessment years 1993-94, 1995-96, and 1998-99. The affidavit which has been filed on behalf of the respondent No. 2 does not deny the said figure. It has also been mentioned in the affidavit filed by the respondent No. 2 that the matter has been placed before the Government for approval after being processed from the Office of the Commissioner of Taxes.

7. In that view of the matter, this Court disposes of the instant writ petition with a direction to the respondents and more particularly the respondent No. 2 to ensure that the payment is made to the petitioner in respect to the amount of Rs. 37,87,166/- within a period of 4 (four) months from the date of a certified copy of the instant order is served upon respondent No.2. In addition to that, this Court further directs that the petitioner herein would also be entitled to interest in terms with Section 32 of the Assam General Sales Tax Act, 1993 and as such the interest also be paid within the said period and as such the amount so directed to be paid herein above shall carry the statutory interest which is required to be paid within the said time frame.

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

JUDGE

Comparing Assistant