



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

Case No. : WP(C)/46/2025

M/S EAST INDIA CONSTRUCTION CO.

A PARTNERSHIP FIRM HAVING ITS REGISTERED OFFICE AT TANEJA HOUSE JODHADIH MORE, VILLAGE CHAS P.O. CHAS, P.S. CHAS, DISTRICT-BOKARO, JHARKHAND, PIN-827013. REPRESENTED BY ITS MANAGING PARTNER SRI KAMAL TANEJA AGED ABOUT 55 YEARS, SON OF SRI CHANDRA MOHAN TANEJA, RESIDENT OF TANEJA HOUSE JODHADIH MORE, VILLAGE CHAS, P.O. CHAS, P.S. CHAS, DISTRICT- BOKARO, JHARKHAND, PIN-827013.

VERSUS

THE UNION OF INDIA AND 3 ORS

REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, ROOM NO.66-A, NORTH
BLOCK NEW DELHI-110001 2:THE COMMISSIONER OF CENTRAL
GOODS AND SERVICE TAX

5TH FLOOR

AGARWAL TOWER

NST COLONY

CITY TOWER AREA I. VIKHESHE ROAD

DIMAPUR

PIN-797112

NAGALAND.

3:THE ADDITIONAL COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX

DIMAPUR COMMISSIONERATE 5TH FLOOR

AGARWAL TOWER

NST COLONY

CITY TOWER AREA I. VIKHESHE ROAD

DIMAPUR

PIN-797112

NAGALAND.

4:THE DEPUTY COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX

5TH FLOOR
AGARWAL TOWER
NST COLONY
CITY TOWER AREA I. VIKHESHE ROAD
DIMAPUR PIN-797112
NAGALAND

Advocate for the Petitioner : ABHINAY KR. GUPTA, THUYEKHRULU,RAVI SHANKAR MISHRA

Advocate for the Respondent : CGSC,

BEFORE
HON'BLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 12.09.2025

Mr. R.S. Mishra, learned counsel for the petitioner as well as the Mr. Z. Kulnu, learned Departmental Senior Standing Counsel appearing for all the respondents.

2. The case of the petitioner is that the Additional Commissioner under the office of the Commissioner, Central Goods and Services Tax, Dimapur had issued a notice bearing C. No. GEXCOM/ ADJN/ GST/ ADC/ 138/2022-ADJN-O/o-COMMR-CGST-DIMAPUR/1555 dated 16.09.2022, thereby issuing Demand -cum- Show Cause Notice bearing SCN No. 10/GST/DIMAPUR/2022-23 dated 16.09.2022, alleging availing of the ineligible Input Tax Credit, projecting that the petitioners had claimed excess Input Tax Credit (ITC for short) totaling Rs.52,88,894/- and accordingly, relying on the letter issued to the petitioner as well as the GST returns filed for the period of January, 2018 to March, 2020 and GSTR-2A returns

of the petitioner for the same period, the demand was issued without prejudice to any other action that may be or already has been initiated against the petitioner under the IGST Act, 2017 CGST Act, 2017 and SGST Act, 2017 or Rules made thereunder.

3. Accordingly, the said Demand -cum- Show Cause Notice under Form-GST DRC-01 dated 16.09.2022 as well as consequential summary of the Order-in-Original No. 14/Addl. Commr./GST/Dimapur/2023-24 dated 24.11.2023, passed by the Additional Commissioner under the office of the Commissioner, Central Goods and Services Tax, Dimapur are assailed in this writ petition filed under Article 226 of the Constitution of India.

4. The learned counsel for the petitioner has submitted that he is relying on the judgment and order dated 29.06.2024 passed by this Court in WP(C) 3912/2024 and connected writ petitions, whereby amongst others, it has been held that the proceedings under Section 73 of the GST Act cannot be validly initiated without issuance of a proper show cause notice.

5. On the said point, the learned Departmental Senior Standing Counsel has submitted that he has received written instruction dated 20.05.2025, *inter alia*, admitting that no prior show cause notice was issued to the petitioner and he submits that he has instructions that the matter may be remanded back to the authorities for initiation of an appropriate proceeding in accordance of law.

6. In view of the statement made by the learned Departmental Senior Standing Counsel, this writ petition stands allowed in view of the concession made. The Demand -cum- Show Cause Notice bearing SCN No. 10/GST/DIMAPUR/2022-23 dated

16.09.2022 vide order No. C. No.

GEXCOM/ADJN/GST/ADC/138/2022-ADJN-O/o-COMMR-CGST-

DIMAPUR/1555 dated 16.09.2022 as well as Order-in-Original No. 14/Addl. Commr./GST/Dimapur/2023-24 dated 24.11.2023, passed by the Additional Commissioner under the office of the Commissioner, Central Goods and Services Tax, Dimapur, which are impugned in this writ petition are set aside. However, the matter is remanded back to the Additional Commissioner under the office of the Commissioner, Central Goods and Services Tax, Dimapur to draw-up an appropriate proceeding against the petitioner, if so advised, in accordance with law.

7. The instructions produced by the learned Departmental Senior Standing Counsel is returned.

Sd/-

JUDGE

Comparing Assistant