GAHC010012082025

2026:GAU-AS:15141

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

Case No. : WP(C)/1043/2025

BIJOY KUMAR MODI
S/O- LATE HANUMAN BAX MODI, DIRECTOR OF ACTIV CONSULTING ENGINEERS (I) PVT, LTD, HAVING THEIR REGISTERED OFFICE AT H.NO-1, BISHNU RABHA PATH, OPP. ZOO POINT BUS STOP, RG BARUAH ROAD, GUWAHATI-21

VERSUS

THE UNION OF INDIA AND ORS
REP BY SECRETARY TO THE GOVT OF INDIA, MINISTRY OF FINANCE DEPTT , DEPARTMENT OF REVENUE, NORTH BLOCK,
NEW DELHI-01

2:THE PRINCIPAL COMMISSIONER
GST AND CENTRAL EXCISE
GST BHAWAN 1ST FLOOR
KEDAR ROAD
MACHKHOWA
GUWAHATI-01

3:THE COMMISSIONER APPEALS
GST BHAWAN 3RD FLOOR
KEDAR ROAD
MACHKHOWA
GUWAHATI-01

4:THE ASSISTANT COMMISSIONER
GST AND CENTRAL EXCISE GUWAHATI

DIVISION -I

GST BHAWAN

KEDAR ROAD
MACHKHOWA
GUWAHATI-01

5:THE STATE OF ARUNACHAL PRADESH
REP BY THE COMMISSIONER TO THE GOVT OF ARUNACHAL PRADESH
PWD DEPARTMENT
ITANAGAR

6:THE EXECUTIVE ENGINEER CAPITAL DIVISION
A PWD ARUNACHAL PRADES

Advocate for the petitioner(s): Mr. D Saraf

Advocate for the respondent(s): Mr. SC Keyal, Senior Advocate &
Standing Counsel, GST Department
Mr. K Jain
Mr. A Chandran Senior Govt. Advocate
Arunachal Pradesh

B E F O R E

HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

06.10.2026

Heard Mr. D Saraf, the learned counsel appearing on behalf of the Petitioner. Also heard Mr. SC Keyal, the learned Senior Counsel as well as the Standing Counsel, GST Department assisted by Mr. K Jain and Mr. A Chandran, the learned Senior Govt. Advocate, who appears on behalf of the State of Arunachal Pradesh.

2. The issue involved in the present proceedings is on a very short question i.e. the failure on the part of the Appellate Authority to take note of the proviso to Section 85(3A) of the Finance Act, 1994 (for

short, *the Act of 1994*) which provides a further period of 30(thirty) days for filing an appeal against the order-in-original beyond the period provided under Section 85(3A) of the Act of 1994 upon showing sufficient cause.

3. From a perusal of the impugned order dated 13.11.2024, it is seen that the order-in-original was passed on 13.03.2024 and the said order was communicated on 25.03.2024. In terms with Sub-Section (3A) of Section 85, there was a period of 2(two) months for filing an appeal and the said period expired on 24.05.2024. It is seen that the appeal was filed on 11.06.2024 i.e. within a period of 30(thirty) days from the date of expiry of the period of 2(two) months as mentioned in Section 85(3A) of the Act of 1994.

4. The petitioner had submitted an application along with the Memo of Appeal on 11.06.2024 providing the grounds that the Accountant of the petitioner had suffered an accident and he joined the Firm in the first week of June after which the Appeal could be filed.

5. Taking into account that the learned Appellate Authority i.e. the Commissioner (Appeals) failed to take into consideration, the application so filed for condonation of delay as well as failed to take note of the proviso to Section 85(3A) of the Act of 1994, it is the opinion of this Court that the impugned order dated 13.11.2024 suffers from perversity, for which, the same is required to be

interfered with.

6. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

(i). The impugned order dated 13.11.2024 passed by the Commissioner (Appeals) CGST, Central Excise and Customs Guwahati in F. No. GAPPL/COM/STP/800/2024-APPEAL/8195 is set aside and quashed.

(ii). The learned Commissioner (Appeals) Commissioner (Appeals) CGST, Central Excise and Customs Guwahati is directed to adjudicate afresh the said appeal being F.No.GAPPL/COM/STP/800/2024-APPEAL/8195 by taking into consideration the application for condonation of delay which was also received on 11.06.2024 and by providing an opportunity of hearing to the Petitioner.

(iii). Taking into account that both the parties are present, this Court directs the Petitioner to serve a copy of this order upon the Commissioner (Appeals) CGST, Central Excise and Customs Guwahati on or before 14.10.2026. Thereupon, the learned Commissioner (Appeals) shall fix a date for hearing on the condonation application and proceed with the disposal of the appeal in accordance with law.

7. Interim order, if any, stands vacated.

JUDGE

Comparing Assistant