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

Case No. : WP(C)/3399/2026

PARAMOUNT TEA MARKETING PVT. LTD.
3RD FLOOR, DEKA PREMISES, CHRISTIAN BASTI, GS ROAD, GUWAHATI-781005, IN THE DISTRICT OF KAMRUP (METRO), ASSAM. REPRESENTED BY ITS MANAGING DIRECTOR AND AUTHORIZED SIGNATORY SRI M. C. KARUMBAIAHH, SON OF SRI M. U. CALAPPA, PRESENTLY RESIDING AT 1B, MAGNUM RESIDENCY, BAIKUNTHA PATH, GEETANAGAR, GUWAHATI 781024, KAMRUP (METRO), ASSAM

VERSUS

UNION OF INDIA AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, NORTH BLOCK, NEW DELHI

2:THE PRINCIPAL COMMISSIONER OF CGST AND CENTRAL EXCISE
GUWAHATI COMMISSIONERATE GST BHAWAN
KEDAR ROAD
MACHKHOWA
GUWAHATI 781001
ASSAM

3:THE ADDITIONAL COMMISSIONER (APPEALS)
CGST
CENTRAL EXCISE AND CUSTOMS
GUWAHATI
OFFICE OF THE COMMISSIONER (APPEALS)
CGST
CENTRAL EXCISE AND CUSTOMS
3RD FLOOR
GST BHAWAN
KEDAR ROAD

MACHKHOWA
GUWAHATI 781001
ASSAM

4:THE ASSISTANT COMMISSIONER
DIVISION -II
CGST AND CX

GUWAHATI
OFFICE OF THE ASSISTANT COMMISSIONER
CENTRAL GST AND CENTRAL EXCISE
DIVISION- II
GUWAHATI
2ND FLOOR
GST BHAWAN
KEDAR ROAD
MACHKHOWA GUWAHATI 781001 ASSA

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Advocate for the petitioner (s) : Dr. A. Todi, Advocate

Advocate for the respondent (s): Ms. P. Borah, CGC
Mr. S. C. Keyal, Sr. Advocate
Mr. K. Jain, Advocate

Date on which judgment is reserved : NA

Date of pronouncement of judgment : 05.11.2026

Whether the pronouncement is of the Operative part of the judgment? : Yes

Whether the full judgment has been Pronounced? : No

JUDGMENT AND ORDER (ORAL)

Heard Mr. A. Todi, the learned counsel appearing on behalf of the Petitioner. Ms. P. Borah, the learned CGC appears on behalf of Respondent No. 1 and Mr. S. C. Keyal, the learned Senior Advocate, assisted by Mr. K. Jain, the learned counsel, appears on behalf of Respondent Nos. 2, 3 and 4.

2. The present writ petition has been filed assailing the Order-in-Original dated 07.02.2025 passed by the Assistant Commissioner, Division-II, CGST & CX, Guwahati under the Central Goods and Services Tax Act, 2017 (for short, "the Act of 2017") as well as the Order-in-Appeal dated 30.04.2026 issued by the Additional Commissioner (Appeals), CGST, Central Excise & Customs, Guwahati under the Act of 2017.

3. It is the specific case of the Petitioner that the initiation of the proceedings under Section 73 of the Act of 2017 as well as the Order-in-Original and the Appellate Order calls for interference by this Court in as much as the Petitioner who was the purchaser has duly paid the GST to the supplier and on account of the fault of the supplier for not depositing the said GST or showing it in his returns, proceedings under Section 73 of the Act of 2017 could not have been initiated in as much as a case for tax not paid or short paid or input tax wrongly availed or

utilized, does not arise in the present proceedings.

4. Mr. S. C. Keyal, the learned Senior Counsel appearing on behalf of the Respondent Nos. 2, 3 & 4 submitted that there is no jurisdictional issue involved for this Court to entertain the present writ petition in as much as an Appeal lies to the Appellate Tribunal under Section 112 of the Act of 2017 against the Appellate Order dated 30.04.2026. He, therefore, submitted that when an alternative and efficacious remedy is available, this Court may not like to entertain the instant writ petition. Further to that, the learned Senior Counsel also submitted that if a person is aggrieved by an order of the Appellate Tribunal, there is a further remedy to this Court under Section 117 of the Act of 2017.

5. Dr. A. Todi, on the other hand, submitted that in terms of Section 112(1) of the Act of 2017, the period of limitation is three months from the date on which the order sought to be appealed against is communicated to the person preferring the Appeal, and in the instant case, the Petitioner instead of availing the Appellate provision, had approached this Court within the period of limitation provided under Section 112(1) of the Act of 2017. He, therefore, submitted that it cannot be said that the Petitioner as on date has an alternative and efficacious remedy.

6. This Court has given an anxious consideration to the materials on record and also the respective submissions made by the learned counsel for the parties.

7. The issue involved in the present proceedings is an issue as to whether a case is made out against the Petitioner under Section 73 of the Act of 2017 taking into account that it is the claim of the Petitioner that the Petitioner has already paid the tax to the supplier, and the supplier has not shown the same in his GST returns. The question further arises is as to whether the Petitioner can claim the input tax credit. These are questions of facts which the Appellate Tribunal would be in a position to adjudicate and no jurisdictional questions arise for this Court to entertain the instant writ petition.

8. This Court is also mindful of the fact that if this Court has to relegate the Petitioner to the Appellate Tribunal, the Petitioner should be given an opportunity to file an Appeal and the period of limitation as prescribed under Section 112(1) of the Act of 2017 should not act as a hindrance, more so, taking into account that the Petitioner has approached this Court within the period of limitation as prescribed under Section 112(1) of the Act of 2017 by filing the present writ petition.

9. Accordingly, the instant writ petition therefore stands

disposed of with the following observations and directions:-

(i) This Court, for the reasons aforementioned in the body of the judgment is not inclined to entertain the instant writ petition on the ground that the Petitioner has an alternative and efficacious remedy. Accordingly, the writ petition stands dismissed.

(ii) The Petitioner is given the liberty to prefer an Appeal under Section 112 of the Act of 2017 against the Appellate Order dated 30.04.2026 passed by the Appellate Authority, i.e., the Respondent No.3.

(iii) It is further observed that if the Petitioner files the Appeal under Section 112 of the Act of 2017 within a period of one month from the date of the present judgment, the learned Appellate Tribunal constituted under Section 109 of the Act of 2017 shall entertain the Appeal without insisting on the question of limitation and decide the Appeal on merits.

(iv) There shall be no order as to costs.

JUDGE

Pradip Kumar Kalita
Digitally signed by Pradip Kumar Kalita
Date: 2026.11.05 18:32:47 +05'30'
Comparing Assistant