GAHC010199342026

2026:GAU-AS:14865

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

**Case No. : WP(C)/5038/2026**

MS RAHUL ENTERPRISE AND 2 ORS
A PARTNERSHIP FIRM REPRESENTED BY ITS PARTNER SRI RABINDRA BISWAS, AGED ABOUT 53 YEARS, SON OF LATE SRI RAMPAD BISWAS, WITH ITS PRINCIPAL PLACE OF BUSINESS AT KUMARIKATA, BAKSA, P.O. KUMARIKATA, P.S. TAMULPUR, DISTRICT - BAKSA, PIN 781660, ASSAM.

2: RABINDRA BISWAS
SON OF LATE SRI RAMPAD BISWAS
RESIDENT OF MESGURI
P.O. KAWLI
KUMARIKATA
DISTRICT - BAKSA
PIN - 781360
ASSAM.

3: JUMI MANDAL BISWAS
WIFE OF SRI RABINDRA BISWAS
RESIDENT OF MESGURI
P.O. KAWLI
KUMARIKATA
DISTRICT - BAKSA
PIN 781360
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER TO THE GOVERNMENT OF ASSAM, EXCISE DEPARTMENT, JANATA BHAWAN, DISPUR, GUWAHATI - 781006.

2:THE ADDITIONAL COMMISSIONER OF EXCISE
JANATA BHAWAN
DISPUR

GUWAHATI 781006.

3:THE SUPERINTENDENT OF EXCISE
EXCISE DEPARTMENT
BAKSA
DISTRICT - BAKSA
ASSAM.

4:THE DISTRICT COMMISSIONER
TAMULPUR
DISTRICT- TAMULPUR
ASSAM

**BEFORE**
**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

For the Petitioner(s) : Mr. M. Sarma, Advocate

For the Respondent(s) : Mr. R.R. Gogoi, Standing Counsel

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **05.10.2026**
- 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. M. Sarma, the learned counsel for the Petitioners and Mr. R.R. Gogoi, the learned Standing Counsel for the Excise Department, Government of Assam.

2. The present writ petition has been filed by the Petitioners being aggrieved by the inaction on the part of the Excise Authorities in not processing the application filed by the Petitioners

for conversion of the IMFL "ON" licence to an IMFL "OFF" licence.

3. The brief facts of the instant case as would appear from the materials on record are that the Petitioner No. 3 was issued an IMFL "ON" licence on 22.02.2011. The records further reveal that the Petitioner No. 3 thereupon entered into a partnership with the Petitioner No. 2 and the Petitioner No. 1 is the partnership firm. On the basis of the said partnership agreement, the licence which was issued to the Petitioner No. 3 was converted to a licence issued to the Petitioner No. 1 upon deposit of the necessary fees. This was done on 05.09.2023 as would be evident from Annexure-D to the writ petition. In the meantime, while the IMFL "ON" licence was held by the Petitioner No. 3, an application was submitted on 08.08.2022 along with a challan of Rs. 25,000/- which was deposited on 03.08.2022.

4. It is the case of the Petitioners that in spite of almost four years having passed, no steps have been taken and it is under such circumstances that the present writ petition was filed.

5. During the course of the hearing, Mr. R.R. Gogoi, the learned Standing Counsel appearing on behalf of the Respondent Excise Authorities submitted that conversion of an IMFL "ON" licence to

an IMFL "OFF" licence is permissible in terms with Rule 279A of the Assam Excise Rules, 2016 (for short, "the Rules") as amended by the Assam Excise (Amendment) Rules, 2022 (for short, "the Amending Rules"). The learned Standing Counsel for the Excise Department submitted that in terms with Rule 279A of the Rules, the application has to be submitted within 90 days from the date of publication of the Amending Rules in the Official Gazette. The learned Standing Counsel further submitted that the publication of the Amending Rules in the Official Gazette was made on 07.06.2022 and, therefore, the application along with the conversion fee was required to be deposited on or before 05.09.2022. However, in the instant case, the conversion fee was deposited on 30.09.2022.

6. Per contra, Mr. M. Sarma, the learned counsel appearing on behalf of the Petitioners submitted that a perusal of Rule 279A of the Rules would show that what was necessary was that the application should be accompanied by a challan of Rs. 25,000/-. The learned counsel for the Petitioners further urged that the question of consideration by the District Collector is dependent upon the previous sanction of the State Government on deposit of a conversion fee of Rs. 1,25,000/-. The learned counsel, therefore, submitted that there is no requirement in terms with the proviso to

Rule 279A of the Rules that the application should also be accompanied by the conversion fee of Rs. 1,25,000/- or for that matter that the conversion fee has to be deposited within the window of 90 days as mentioned in the proviso to Rule 279A of the Rules.

7. I have heard the learned counsels appearing on behalf of the parties and have perused the materials on record.

8. For the purpose of adjudicating the present proceedings, this Court finds it relevant to take note of Rule 279A of the Rules which came into effect on the basis of the Amending Rules w.e.f. 07.06.2022. Rule 279A of the Rules, as it stands, is reproduced hereinunder:

> "*Conversion of IMFL "ON" licence to "OFF" licence*
>
> *6. In the principal Rules, after rule 279, the following new rule 279A shall be inserted, namely:-*
>
> "*279A. Subject to the fulfillment of eligibility criteria for grant of IMFL retail 'OFF' licence, the existing IMFL 'ON' licensees in rural areas to whom IMFL 'ON' licences were issued before the first day of March, 2022, shall have the option to apply for conversion of their existing IMFL 'ON' licence to IMFL 'OFF' licence on deposit of an Application Fee of Rs.25,000/- (Rupees twenty five thousand only). Such conversion shall be allowed by the District Collector with the*

*previous sanction of the State Government on deposit of a Conversion Fee of Rs.1,25,000/- (Rupees one lakh twenty five thousand only):*

*Provided that the application for such conversion must be submitted within ninety days of the publication of these Rules in the official Gazette:*

*Provided further that, if required, the Excise Commissioner may issue necessary Standard Operating Procedure with the prior approval of the State Government for carrying out the provisions of this rule."*

9. From a perusal of the above-quoted Rule, it would be seen that what is required is an application along with an application fee of Rs. 25,000/- submitted for conversion of an IMFL "ON" licence to an IMFL "OFF" licence. The proviso, which acts as an exception to the main Rule further stipulates that the said application has to be filed within a period of 90 days from the date of publication of the Rules. A perusal of Rule 279A of the Rules does not envisage that at the time of filing the application for conversion, there is a requirement for deposit of the conversion fee. The deposit of the conversion fee, in the opinion of this Court has to be intimated by the Excise Authorities.

10. Under such circumstances, it is the opinion of this Court that as the application was filed on 08.08.2022 along with the application fee which was deposited on 03.08.2022 within the

window up to 05.09.2022, the Petitioners' application cannot be rejected on the ground that the conversion fee was submitted only on 30.09.2022.

11. Considering the above, this Court is of the opinion that as the application was filed within the period as mentioned in the proviso to Rule 279A of the Rules, there is a requirement for the Respondent Authorities to consider the same as per the provisions of the Assam Excise Act, 2000, read with the Rules framed thereunder.

12. Accordingly, the writ petition stands disposed of thereby directing the Respondent Authorities, more particularly the Respondent Nos. 2, 3 and 4 to take effective steps for consideration in accordance with the provisions of the Assam Excise Act, 2000 read with the Rules framed thereunder.

13. The said exercise be completed within a period of 90 days from the date a certified copy of the present judgment is served upon the Respondent No. 4.

**JUDGE**

Digitally signed by Satyam Sharma
Date: 2026.10.06 06:11:19 +05'30'
**Comparing Assistant**