GAHC010243232026

2026:GAU-AS:16215

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

Case No. : WP(C)/6021/2026

PRABHAT MACHARY
S/O- MAHENDRA MACHARY, R/O- BHAREGAON, CHAPAR BARI, P.S. AND DIST. BARPETA, ASSAM, PIN-781352,

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM, EXCISE DEPARTMENT, DISPUR, GUWAHATI - 781006.

2:THE COMMISSIONER OF EXCISE
ASSAM
HOUSEFED COMPLEX
DISPUR
GUWAHATI - 781006.

3:THE DISTRICT COMMISSIONER
BARPETA
(EXCISE BRANCH)
P.O. AND P.S. BARPETA
DISTRICT BARPETA
ASSAM -781301

4:THE SUPERINTENDENT OF EXCISE
BARPETA
DISTRICT BARPETA
ASSAM - 781301

5:THE INSPECTOR OF EXCISE
BARPETA (S) EXCISE CIRCLE
DISTRICT BARPETA
ASSAM

B E F O R E

HON'BLE MR. JUSTICE DEVASHIS BARUAH

Advocates for the Petitioner(s) : Mr. HRA Choudhury,
Senior Advocate
Mr. K Baishya

Advocates for the respondent(s) : Mr. RR Gogoi
Standing Counsel, Excise Dept.

Date on which Judgment is reserved: NA

Date of Pronouncement of Judgment : **04.11.2026**

Whether the Pronouncement is of the Operative Part of the Judgment : Yes

Whether the Full Judgment has been Pronounced : No

JUDGMENT & ORDER(ORAL)

Heard Mr. HRA Choudhury, the learned Senior Counsel, assisted by Mr. K Baishya, the learned counsel appearing on behalf of the Petitioner. I have also heard Mr. RR Gogoi, the learned Standing Counsel, who appears on behalf of all the respondents.

2. The present writ petition has been filed assailing the impugned order dated 16.10.2026 whereby on the ground of an allegation that the petitioner has been habitual in closing the *IMFL ON Shop* beyond

the permissible hours permitted by the license was imposed with a penalty of Rs.3,75,000/- and thereby directing the petitioner to make payment of the same within 7(seven) days failing which the license shall be cancelled.

3. This Court has duly perused the impugned order dated 16.10.2026.

4. From a perusal of the said impugned order it reveals that the compounding of the offence which *prima facie* appears to be an offence under Section 58 of the *Assam Excise Act, 2000* (for short, '*the Act of 2000*') has been carried out based upon a late closing license fee in terms with Rule 19(1) of the *Assam Excise (Amendment) Rules, 2024* and thereby compounding the same by 3(three) times in terms with the proviso to Section 76(4) of the Act of 2000. The breach as alleged in the impugned order at best would come within the ambit of Section 58(b) of the Act of 2000.

5. Compounding of an offence committed for breach of the license has to be made in terms with Section 76 of the Act of 2000, on an application filed by the licensee.

6. In the instant case, it is seen that the compounding has been carried out unilaterally by the District Commissioner, Barpeta, and

basing on the late closing license fee which appears to be contrary to Section 58 read with Section 76 of the Act of 2000. Accordingly, it is, therefore, the opinion of this Court that the impugned order dated 16.10.2026 cannot be sustained in law.

7. In that view of the matter, the present proceedings stands disposed of with the following observation(s) and direction(s):

(i). The impugned order dated 16.10.2026 passed by the District Commissioner, Barpeta is set aside and quashed.

(ii). The above direction of setting aside and quashing of the impugned order dated 16.10.2026 issued by the District Commissioner Barpeta shall not affect the jurisdiction of the respondent authorities to initiate proceedings under Section 58 of the Act of 2000 read with the relevant Rules, if so advised.

JUDGE

Comparing Assistant