GAHC010254082023

2026:GAU-AS:16339

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

Case No. : WP(C)/6668/2023

MS VINAYAK CEMENT
A PARTNERSHIP FIRM HAVING ITS REGISTERED OFFICE AT SHIVAM COMPLEX A T ROAD OPPOSITE STATE BANK OF INDIA BHARALUMUKH GUWAHATI 781009 AND REP BY ITS PARTNER KUNAL MITTAL AGED ABOUT 35 YEARS R/O H NO. 114 M S ROAD KALI MANDIR CHAWAL PATTY GUWAHATI 781001 KAMRUP METRO ASSAM

VERSUS

ADDITIONAL COMMISSIONER OF STATE TAXES APPEALS
GUWAHATI, ZONE B, KAR BHAWAN, DISPUR GUWAHATI 781006

2:THE JOINT COMMISSIONER OF STATE TAX
GUWAHATI
ZONE B
KAR BHAWAN
GUWAHATI 781006 DISPU

Advocate for the Petitioner : MR. P DAS, MS. N UPADHYAY,MR. Z ISLAM

Advocate for the Respondent : SC, TAXES,

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

06.11.2026

1. Heard Mr. N. Sharaff, the learned counsel for the petitioner. Also heard Mr. B. Gogoi, learned Additional Advocate General, Assam representing the Finance and Taxation Department.

2. The grievance of the petitioner is against an order dated 07.08.2023 passed by the Additional Commissioner of State Taxes (Appeals), whereby a demand of tax of Rs. 1,13,07,076/- has been levied along with interest and equivalent penalty of the same amount.

3. The petitioner has preferred the aforesaid appeal on payment of 10% of the amount in question and a further second appeal lies against such appellate order, however, at that relevant point of time, no Tribunal was constituted and being situated thus, the petitioner approached this Court by invoking this Court's jurisdiction under Article 226 of the Constitution of India.

4. In the meantime, the Tribunal has been constituted.

5. Therefore, in the fitness of things and as agreed to by the learned counsel for the parties, the petitioner is relegated to the Second Appellate Authority to raise his challenge to the appellate order dated 07.08.2023.

6. The petitioner may file such appeal before the concerned Tribunal within a period of three months from today.

7. In the event, such appeal is filed, the Tribunal shall proceed in accordance with law by giving reasonable opportunity of hearing to the petitioner, but without insisting on the limitation for the reason of

pendency of this present writ petition, subject to filing the second appeal within the time as directed by this Court in the present petition.

8. All the questions raised in the present writ petition are kept open to be determined by the Tribunal.

9. As an interim order was passed by this Court on 18.11.2023. In the fitness of thing, it is provided that such interim order dated 18.11.2023, shall continue till the Tribunal takes up the matter and considers afresh the prayer of the interim order.

10. While parting with the record, it is clarified that this Court has not entered into the merits of the claim and counter-claim of the parties and all questions are left open to be decided by the Tribunal.

11. With the aforesaid observation, this writ petition stands disposed of.

JUDGE

Comparing Assistant