

GAHC010032552024



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

Case No. : WP(C)/789/2024

MANOJ KONWAR
S/O TILSWAR KONWAR R/O WARD NO. 5 RATANPUR NO. 1 NAGAKHELIA
DHEMAJI ASSAM 787057 AND HSVING ITS OFFICE AT WARD NO 3
DHEMAJI TOWN DHEMAJI ASSAM 787057 DHEMAJI ASSAM

VERSUS

ASSTTANT COMMISSIONER AND THREE OTHERS
CENTRAL GOODS AND SERVICES TAX, TEZPUR DIVISION, L.B. ROAD,
P.O.TEZPUR, ASSAM - 784001.

2:UNIONOF INDIA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
NO.137
NORTH BLOCK
NEW DELHI-110001

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
DEPARTMENT OF FINANCE AND TAXATION
ASSAM SECRETARIAT
DISPUR
GUWAHATI - 781 006

4:GSTN (GOODS AND SERVICE TAX NETWORK
THROUGH ITS CEO
EAST WING
WORLDMARK 1
4TH FLOOR

TOWER B
AEROCITY
NEW DELHI- 11003

Advocate for the Petitioner : MR PRATYUSH DAS, MR. SHRAFF,MR. V SARAF,MS. N
UPADHYAY,MR. Z ISLAM

Advocate for the Respondent : SC, GST, SC, FINANCE AND TAXATION

Linked Case : WP(C)/788/2024

M/S HORIZON ENTRADE PRIVATE LIMITED
IS A PRIVATE LIMITED COMPANY HAVING ITS PRINCIPAL PLACE OF
BUSINESS AT SARASWATI VIHAR
R.G.B ROAD
NEAR NRL PETROL PUMP
KAMRUP METROPOLITIAN
ASSAM - 781005 AND IN THE PRESENT PROCEEDINGS REPRESENTED BY
ITS DIRECTOR MR. ASHOK AGARWAL.

VERSUS

ASSISTANT COMMISSIONER OF STATE TAXES AND THREE ORS
CIRCLE- GUWAHATI- C- 5
KAR BHAWAN
DISPUR
GUWAHATI- 781 006.

2:THE UNION OF INDIA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
NO.137
NORTH BLOCK
NEW DELHI-110001.

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
DEPARTMENT OF FINANCE AND TAXATION
ASSAM SECRETARIAT
DISPUR

GUWAHATI - 781 006.

4:GSTN (GOODS AND SERVICE TAX) (NETWORK)
THROUGH ITS CEO
EAST WING
WORLD MARK 1
4TH FLOOR
TOWER B
AEROCITY
NEW DELHI - 110037

For the petitioner/appellant(s) : Mr. Shraff, Advocate (through VC)

For respondent(s) : Mr. B. Choudhury, SC, Finance
Mr. S. C. Keyal, SC, GST

– BEFORE –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE KARDAK ETC

21.08.2024

(Vijay Bishnoi, CJ)

Learned counsel appearing for the respective parties are in agreement that with the amendment of the Central Goods and Services Tax (CGST) Act, 2017, particularly by insertion of sub-section (5) in Section 16, the grievance raised by the writ petitioners in this writ petition have been redressed.

With the coming into force of the Finance (No. 2) Act, 2024, a new sub-section (5) has been inserted in Section 16 of the CGST Act, 2017, which reads as under:

“(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November, 2021.”

Admittedly, the petitioners have submitted their invoice/debit note pertaining to the financial year 2018-19 and, that too, prior to 30.11.2021 and, therefore, the case of the petitioners very well comes under the provisions of sub-section (5) of Section 16.

Hence, no further order is required to be passed in these writ petitions and the same are accordingly disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant