

GAHC010020462024



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

Case No. : I.A.(Civil)/286/2024

INDIAN OIL CORP LTD (MARKETING DIV)
A GOVT. OF INDIA ENTERPRISE HAVING ITS REGISTERED OFFICE
SITUATED AT MUMBAI AND REGIONAL OFFICE SITUATED AT 2,
GARIAHAT ROAD (SOUTH), DHAKURIA KOLKATA-700068 AND HAVING
ONE OF ITS STATE OFFICE AS INDIAN OIL AOD STATE OFFICE, NOONMATI
GUWAHATI. THE PETITIONER IN THE PRESENT PROCEEDINGS IS BEING
REP. BY
MR. A PAZHANI, DGM (FINANCE) OF THE PETITIONER COMPANY

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM, FINANCE (TAXATION) DEPARTMENT DISPUR, GUWAHATI-06

2:THE COMMISSIONER OF TAXES
ASSAM
KAR BHAVAN
DISPUR
GUWAHATI-06

3:THE ASSISTANT COMMISSIONER OF TAXES
GUWAHATI UNIT-A
KAR BHAVAN
DISPUR
GUWAHATI-06

4:SUPERINTENDENT OF TAXES
GUWAHATI UNIT-A
KAR BHAVAN
DISPUR
GUWAHATI-0

Advocate for the Petitioner : DR. ASHOK SARAF

Advocate for the Respondent : GA, ASSAM

Linked Case : **WP(C)/91/2024**

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Advocate for : DR. ASHOK SARAF
Advocate for : SC FINANCE AND TAXATION appearing for THE STATE OF
ASSAM AND 3 ORS

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 26-02-2024

Heard Mr. N.N. Dutta, learned counsel for the applicant-writ petitioner and Mr. H. Baruah, learned counsel representing Mr. B. Choudhury, learned Standing Counsel, Finance & Taxation Department, Assam for all the respondents.

2. The applicant as the writ petitioner, has preferred the connected writ petition, W.P.[C] no. 91/2024. The instant interlocutory application has been preferred by the applicant-writ petitioner seeking corrections in the Order dated 19.01.2024 passed in W.P.[C] no. 91/2024 whereby notices were issued to the opposite parties-respondents. It has been averred that in the said Order dated 19.01.2024, certain typographical errors have crept in.

3. In order to appreciate such contentions, the relevant excerpts of the Order dated 19.01.2024 are quoted herein :-

2. Assail is made to an order dated 08.11.2023, passed by the respondent no. 3, whereby, an application submitted by the petitioner for refund of a sum of Rs. 32,37,77,568/- for the Assessment Year : 1996-97 under the Assam General Sales Tax [AGST] Act, 1993 on account of excess interest adjusted, has been disposed of with a finding that the interest levied for the Assessment Year : 1996-97 was on the delayed payment of tax due to the State as per the statutory provisions contained in the Assam General Sales Tax [AGST] Act, 1993.

* * * * *

4. It has been contended that since it was observed by the Hon'ble Division Bench that since there was nil demand for the Assessment Year : 1996-97, there could not be a question of payment of interest for such nil demand. It has been contended that the Order dated 11.03.2015 was passed after considering the relevant provisions of the Assam General Sales Tax [AGST] Act, 1993, more particularly Section 22 thereof. As the SLP preferred against the said Order had been dismissed with no interference to

the Order dated 11.03.2025, passed by the Hon'ble Division Bench of this Court, the respondent No. 3 could not assumed any jurisdiction to reach a finding that interest is leviable.

4. By the interlocutory application, it is averred that the words, 'Assessment Year : 1996-97' appearing in paragraph nos. 2 & 4 above ought to have been 'Assessment Year : 1994-95' and the amount 'Rs. 32,37,77,568/-' appearing in paragraph 2 above ought to have been 'Rs. 26,86,98,295/-'.

5. I have gone through the statements and averments made in the instant interlocutory application as well as in the writ petition. On going through the same, it becomes evident that the errors are inadvertent typographical errors. In such view of the matter, the instant interlocutory application stands allowed.

6. It is observed that for all intents and purposes, the words, 'Assessment Year : 1996-97' appearing in paragraph nos. 2 & 4 of the Order dated 19.01.2024 shall be read as 'Assessment Year : 1994-95'. Similarly, the amount appearing in paragraph 2 of the said Order dated 19.01.2024 as 'Rs. 32,37,77,568/-' shall be read as 'Rs. 26,86,98,295/-' for all intents and purposes. This order shall be read as part and parcel of the Order dated 19.01.2024 passed in the connected writ petition, W.P.[C] no. 91/2024.

JUDGE

Comparing Assistant