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THE GAUHATI HIGH COURT

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

Case No. : WP(C)/262/2026

NEW TECH STEEL AND ALLOYS PVT LTD
A COMPANY REGISTERED UNDER THE COMPANIES ACT 1956 HAVING ITS REGISTERED OFFICE SITUATED AT NH 39 NEAR CRPF GROUP CENTRE BORJAN KHATKHATI DISTRICT KARBI ANGLONG ASSAM 782480 IN THE INSTANT CASE THE PETITIONER COMPANY IS REP. BY SHRI SANJAY SHARMA, ONE OF ITS DIRECTOR, AGED ABOUT 56, YEARS SON OF NAGENDRA SHARMA, RESIDENT OF THANGAL BAZAR, IMPHAL MANIPUR.

VERSUS

THE UNION OF INDIA AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT OF INDIA MINISTRY OF FINANCE DEPARTMENT OF REVENUE NEW DELHI 110001

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVT OF ASSM FINANCE AND TAXATION DEPARTMENT ASSAM SECRETARIAT DISPUR GUWAHATI 781006

3:THE PRINCIPAL COMMISSIONER

GOODS AND SERVICE TAX AND CENTRAL EXCISE GST BHAWAN KEDAR ROAD MACHKHOWA GUWAHATI 781001

4:THE JOINT COMMISSIONER

GOODS AND SERVICE TAX AND CENTRAL EXCISE GST BHAWAN KEDAR ROAD MACHKHOWA GUWAHATI 78100

Advocate for the Petitioner : DR. ASHOK SARAF, B SARMA,MR P K BORA,MR S J SAIKIA,MR. N N DUTTA,MR P BARUAH

Advocate for the Respondent : DY.S.G.I., MS J SARMAH,SC, GST

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

21.01.2026

Heard Dr. A Saraf, learned Senior Counsel assisted by Mr. A Kaushik, learned counsel for the petitioner. Also heard Mr. SC Keyal, learned Standing Counsel, CGST for the respondents.

2. By filing this writ petition, the petitioner has put to challenge the vires of Section 16(4) of the GST Act, 2017 and the Order-in-Original dated 18.04.2024, passed by the Joint Commissioner, CGST & CX Commissioner, Guwahati, the respondent no.4 whereby ITC refund claimed by the petitioner for the financial year 2018-2019 has been rejected on the ground that the petitioner had erroneously availed the Input Tax Credit (ITC) in contravention to Section 16(4) of the CGST Act, 2017, read with Section 20 of the IGST Act, 2017 and the applicable Assam GST Act, 2017.

3. During the pendency of the writ petition, vide Gazette Notification dated 16.08.2024 by which an amendment in Section 16 of the Central Goods and Services Tax was brought in with retrospective effect from 01.07.2017 by

inserting Sub-Section (5) in Section 16 of the Central Goods and Services Tax Act, 2017.

4. Section 16(5) of the Central Goods and Services Tax Act, 2017 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, 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."*

5. The learned Standing Counsel, CGST for the respondents is in agreement that in view of the insertion of Sub-Section (5) in Section 16 of the Central Goods and Services Tax Act, 2017, the grievance raised by the petitioner has been redressed.

6. Dr. A. Saraf, learned Senior Advocate for the petitioner, submits that in view of the amendment brought in to Section 16 of the Central Goods and Services Tax Act, 2017 by inserting Sub-Section (5), the impugned Order-in-Original dated 18.04.2024 passed by the respondent authorities may be set aside and the matter be remanded back and direction may be issued to pass an appropriate order in view of insertion of Sub-Section (5) of Section 16 of Central Good and Services Tax Act, 2017.

7. In view of the submissions made by the learned counsels for the parties and

also considering the amendment brought in Section 16 of the Central Goods and Services Tax Act, 2017, by inserting Sub-Section (5), the impugned order-in-original dated 18.04.2024 is hereby set aside without adjudicating the said order on merit.

8. The respondent authorities are directed to consider and pass an appropriate order taking into consideration of the provision of Sub-Section (5) of Section 16 of the Central Goods and Services Tax Act, 2017, vide Amendment (Finance Act, 2024) dated 16.08.2024.

9. The writ petition stands disposed of, in terms of the above observation and direction.

JUDGE

Comparing Assistant