

GAHC010013302024



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

Case No. : WP(C)/2943/2024

M/S RAKIBUL ISLAM AND ANR
A PROPRIETORSHIP FIRM HAVING ITS PRINCIPAL PLACE OF BUSINESS AT
FULERCHAR, SOUTH SALMARA MANKACHAR, FULERCHAR PART-1,
ASSAM- 783135

2: MD. RAKIBUL ISLAM
SON OF SAHAJAHAN MIAH
SOLE PROPRIETOR OF THE PETITIONER NO.

VERSUS

THE UNION OF INDIA AND 5 ORS
MINISTRY OF FINANCE, REPRESENTED BY THE SECRETARY TO THE
MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NEW DELHI

2:THE PRINCIPAL COMMISSIONER
CGST CENTRAL EXCISE AND SERVICE TAX
KEDAR ROAD
GST BHAWAN
GUWAHATI
ASSAM

3:THE STATE OF ASSAM
THROUGH THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT
OF ASSAM
MINISTRY OF FINANCE AND TAXATION
KAR BHAWAN
GANESHGURI
GUWAHATI
ASSAM

4:THE PRINCIPAL COMMISSIONER
ASSAM
KAR BHAWAN

G.S.ROAD
DISPUR
GUWAHATI-06

5:THE DEPUTY COMMISSIONER OF STATE TAXES
DHUBRI-1
ASSAM

6:THE SUPERINTENDENT OF STATE TAXES
DHUBRI-1
ASSA

Advocate for the Petitioner : MS. M L GOPE, MR J MAHANTA,MR S K SAHA,MS. N GOGOI,MS. N HAWELIA

Advocate for the Respondent : DY.S.G.I., SC, FINANCE AND TAXATION,SC, GST

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : Date: 30.07.2025

Heard Mr. S. K. Saha, learned counsel appearing on behalf of the petitioner.

Mr. Saha, has submitted that the concern of the petitioner was registered under the GST, Act, w.e.f. 06.02.2023 and he had, in the portal, disclosed the purchase and sale made by him after till the conclusion of the Financial Year 2022-23. However, a notice was issued to him on 20.05.2023 by the GST authorities alleging of violation of Section-16 of the GST Act or, the rules made thereunder. Thereafter, the petitioner not having furnished his reply to the said notice, on 29.05.2023, invoking the provisions of Section-61 of the GST Act, 2017, a notice was issued to the petitioner, disclosing the excess claim of the ITC made by the petitioner. The petitioner, on 30.05.2023, submitted his reply and therein contended that he had availed the ITC as per Section-2(A) of the Act and that, it was a mistake on his part in not acting in the matter in terms of the amendment in the ITC rules w.e.f., 01.01.2022. He also undertook to reverse the excess ITC of Rs. 43,08,195.44/- claimed by him for the year 2022-23. The respondent authorities, thereafter, issued an

order for cancellation of the registration of the petitioner and therein, the reason for such cancellation was projected that the registration of the petitioner is fake and the ITC was availed without actual supply of goods.

Mr. H. Barua, learned Standing Counsel, Taxation Department, shall on the next date of listing, satisfy this Court with regard to the reasoning advanced by the respondents in the order dated 24.05.2020 and noticed herein above.

Registry is directed to list this matter again on 01.09.2025.

JUDGE

Comparing Assistant