

GAHC010093742022



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

Case No. : WP(C)/3260/2022

SHREE GAUTAM CONSTRUCTION COMPANY LTD AND ANR
4TH FLOOR, AMAZE SHOPPING MALL A.T. ROAD, OPPOSITE PAN BAZAR
OVER BRIDGE, PALTAN BAZAR, GUWAHATI-1 REP. BY ITS DIRECTOR
CHAIN ROOP BAID

2: CHAIN ROOP BAID
S/O LT. JAWARI LAL BAID
R/O PRAKRITI PALM
SHAKTIGARH PATH
G.S. ROAD
GUWAHATI-781005 DIST. KAMRUP (M) ASSA

VERSUS

THE UNION OF INDIA AND 2 ORS
REP. BY ITS SECRETARY TO THE GOVT. OF INDIA DEPTT. OF GENERAL
SERVICE TAXES, NEW DELHI-110001

2:THE PRINCIPAL COMMISSIONER OF GST AND CENTRAL EXCISE
GST AND CENTRAL EXCISE COMMISSIONERATE
GUWAHATI GST BHAWAN KEDAR ROAD
MACHKHOWA
GUWAHATI-1 DIST. KAMRUP (M) ASSAM

3:THE ADDITIONAL DIRECTOR GENERAL OF DIRECTORATE GENERAL OF
GOODS AND SERVICE TAX INTELLIGENCE
GUWAHATI
H. NO. 04 BY LANE 2 RAJGARH MAIN ROAD
P.O. SILPUKHURI
CHANDMARI
GUWAHATI ASSAM-78100

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 06.02.2023

Heard Mr. K.N. Choudhury, learned senior counsel assisted by Mr. K. L. Gupta, learned counsel appears for the petitioner.

Also heard Mr. S. C. Keyal, learned standing counsel assisted by Ms. P. Das, learned counsel appearing for GST department.

It is submitted by the parties that the pleadings are completed in the matter and the matter can be disposed of at the admission stage. The issues urged in the matter are that the impugned assessment order passed by the Respondent Authority is barred by limitation. It is submitted that the petitioner is entitled to the benefits under the Notification No. 25/2012-ST dated 20.06.2012, whereby the services undertaken by the petitioner as prescribed under Clause 12 of the said Notification are exempted from the purview of service tax. That apart, it is the submission of the learned senior counsel for the petitioner that in a similar proceeding involving a Joint Venture entity where the present petitioner was a constituent of the joint venture, the benefit of this Notification was granted to the said joint venture entity by the said

assessing authority. The learned senior counsel submits that the quasi judicial authority under similar facts and circumstances is not entitled to take different/contradictory views unless the same is distinguished on facts and which has not been done in the order of the assessing authority impugned in the present proceedings.

Mr. S.C. Keyal, learned standing counsel defends the order of the assessing officer and submits that the matter will have to be heard at length.

Accordingly, let the matter be listed again for further hearing on 28th February, 2023.

JUDGE

Comparing Assistant