

GAHC010104292018



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

**Case No. : WP(C) 3215/2018**

1:THE GUWAHATI TEA WAREHOUSING ASSOCIATION  
AN ASSOCIATION HAVING ITS REGD OFFICE AT SURANNA BHAWAN,  
TOKOBARI ROAD, GUWAHATI- 01, ASSAM, REP. BY MANOJ KUMAR  
SURANA, GENERAL SECRETARY OF PETITIONER

VERSUS

1:THE UNION OF INDIA AND 3 ORS.  
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF FINANCE,  
DEPTT OF REVENUE, NORTH BLOCK, NEW DELHI

2:THE STATE OF ASSAM  
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM  
DEPTT OF AGRICULTURE  
HAVING THEIR OFFICE AT DISPUR  
GUWAHATI

3:THE COMMISSIONER GST  
BHANGAGARH  
GUWAHATI- 05  
ASSAM

4:GOODS AND SERVICES TAX  
JANPATH  
NEW DELHI- 0

**Advocate for the Petitioner** : MS. M L GOPE

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

**BEFORE**  
**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**23-05-2018**

Heard Ms. M. L. Gope, learned counsel for the petitioner's Association. Also heard Mr. S. C. Keyal, learned Assistant Solicitor General of India for the respondent Nos. 1 and 4 and Ms. R. B. Bora, learned Government Advocate for the respondent Nos.2 and 3.

The petitioner's Association's challenge herein is the clarification dated 15.11.2017 issued by the Government of India in the Ministry of Finance, Department of Revenue by which it clarified that the processed tea (i.e., black tea, white tea etc) falls outside the definition of agricultural produce given in notification No.11/2017-CT(Rate) and 12/2017-CT (Rate) and corresponding notifications issued under IGST and UGST Acts and therefore the exemption from GST is not available to their loading packing warehousing etc. and that any clarification issued in the past to the contrary in the context of Service Tax or VAT/ Sales Tax is no more relevant. The petitioner contended that the Hon'ble Supreme Court in other cases have held that tea is a 'agricultural produce' for which such tax is not applicable.

Issue notice returnable by **20.06.2018**.

As Mr. S.C. Keyal learned ASGI and Ms. R. B. Bora, learned Government Advocate have entered appearance and accepted notice on behalf of the respondent Nos. 1, 2, 3 and 4, no formal notice need to be issued.

Payment toward GST made by the petitioners' Association in terms of the impugned clarification F.No.354/173/2017-TRU of Government of India, Ministry of Finance, Department of Revenue dated 15.11.2017 (Annexure V to the writ petition) shall be subject to the outcome of this writ petition.

List accordingly.

**JUDGE**

**Comparing Assistant**