GAHC010144122023

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

Case No. : WP(C)/3825/2023

M/S NAYANJYOTI TRANSPORT SERVICES
A PROPRIETORSHIP CONCERN HAVING ITS REGISTERED OFFICE AT DIGARU, P.O. VILL - DIGARU, DIST- KAMRUP METRO, GUWAHATI, ASSAM, PIN-782401, REPRESENTED BY ITS SOLE PROPRIETOR SHRI SATYABRAT RONGPI

VERSUS

UNION OF INDIA AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA, DEPARTMENT OF FINANCE

2:THE PRINCIPAL COMMISSIONER OF CENTRLA GOODS AND SERVICE TAX
GST BHAWAN
KEDAR ROAD
GUWAHATI-781001
ASSAM

3:THE COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX
CENTRAL GST BHAWAN
NETAJI CHOWMUJANI
MANTRI BARI ROAD
P.O.-AGARTALA
H.O. WEST TRIPURA
DIST-TRIPURA
PIN-799001

4:THE ADDITIONAL COMMISSIONER
CENTRAL GOODS AND SERVICE TAX
GUWAHATI
GST BHAWAN
KEDAR ROAD
GUWHAATI-781001

ASSAM

5:THE ADDITIONAL COMMISSIONER
CENTRLA GOODS AND SERVICE TAX AND CENTRAL EXCISE
AGARTALA
OFFICE OF THE COMMISSIONER
CENTRAL GOODS AND SERVICES TAX
CENTRAL GST BHAWAN
NETAJI CHOWMUJANI
MANTRI BARI ROAD
P.O.-AGARTALA
H.O. WEST TRIPURA
DIST-TRIPURA
PIN-79900

Advocate for the Petitioner : MR. R S MISHRA

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

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 28.06.2023

Heard Mr. R.S. Mishra, learned counsel for the petitioner and Mr. S.C. Keyal, learned Standing Counsel, GST for all the respondents.

2. On 23.08.2022, the respondent no. 4 passed an Order-in-Original on the subject, 'Show Cause Notice under F. No. V[15]293/ADJ/CGST-HQRS/GHY/ST/2021/2906 dated 22.10.2021 issued to M/s Nayanjyoti Transport, Digaru, Kamrup, Assam – Adjudication Reg.' wherein he had inter alia reflected the brief facts of the case as under :

> 1.0 A demand-cum-Show Cause Notice under C.No. V(15)293/ADJ/CGST--HQRS/GHY/ST/2021/2906 dated 22.10.2021 (hereinafter referred as the said SCN) was issued by the Additional Commissioner, CGST & Central Excise, Guwahati to M/s Nabajyoti Transport, Prop. Satyabrat Rongpi, Digaru, Kamrup, Assam (hereinafter

referred as 'the said Noticee'), having Service Tax Registration No. AIPPR4983GSD001. In the said SCN, it was alleged that the said Noticee have provided taxable services other than those specified in the Negative List of services under Section 66D of the Finance Act, 1994 during the FY 2016-17. Whereas it appears that the said Noticee has not declared the correct taxable value in the ST-3 returns for the said period and thus suppressed the actual value of services provided during the FY 2016-17 and consequently short paid Service Tax to the tune of 61,76,335/- (Rupees Sixty One Lakh Seventy Six Thousand Three Hundred Thirty Five) only during the period of FY 2016-17 in violation of the provisions of Sections 66B, 67, 68 and 70 of the Finance Act, 1994 as amended read with Rule 6 of the Service Tax Rules, 1994 as amended.

3. After discussion and recording of the findings, the respondent no. 4 by Order-in-Original dated 23.08.2022 had dropped the proceedings initiated against the petitioner vide Show Cause Notice dated 22.10.2021.

4. On 30.03.2023, the respondent no. 5 had passed another Order-in-Original on the subject :- 'Order-in-Original No. 04/ST/ADC[HQ]/2023 passed by the ADC, CGST Commissionerate, Agartala w.r.t. Sri. Satyabrat Rongpi [PAN: AIPPR4983G] M/s. Nayanjyoti Transport Service, Vill + P.O: Digaru, District: Kamrup Metropolitan, Assam, 782402 E-mail: nilotpaldhar@yahoo.co.in against Show Cause Notice issued from C.No.V[15]522/ADJ/CGST-HQRS/GHY/ST/2022 dated 19.04.2022 by the ADC, CGST Commissionerate, Guwahati' and by the said Order-in-Original dated 30.03.2023, the petitioner has been saddled with a liability of Rs. 61,76,335/- towards service tax.

5. The Order-in-Original dated 30.03.2023 is based, in brief, on the following factual premises, as reflected in paragraph 1.2 of the said order dated 30.03.2023, :-

1.2 It appeared that Shri Satyabrat Rongpi, M/s Nayanjyoti Transport Service, Vill + P.O:

Digaru, District: Kamrup Metropolitan, Assam - 782402 (herein-after referred as the "Noticee"), holding Service Tax Registration Number AIPPR4983GSD002 and falling within the jurisdiction of erstwhile Central Excise & Services Tax, Guwahati, provided taxable services other than those specified in the negative list of services under Section 66D of the Finance Act, 1994 during the FY 2016- 17. It appeared that the Noticee had suppressed the actual value of services provided during the said FY 2016-17 and did not file ST-3 returns for the said year and have consequently evaded Service Tax dues to the tune of Rs. 61,76,335/- (Rupees Sixty One Lakhs Seventy Six Thousand Three Hundred Thirty Five only) in violation of Section 66B, 67, 68 and 70 of the Finance Act, 1994 (hereinafter referred as the said Act) read with Rule 6 of the Service Tax Rules, 1994 (hereinafter referred as the Rules).

6. Issue notice, returnable in 2 [two] weeks.

7. As all the respondents are represented by Mr. Keyal, no formal notices need to be issued to the said respondents. The petitioner shall, however, furnish requisite nos. of extra copies of the writ petition alongwith annexures, to Mr. Keyal within 3 [three] working days from today.

8. Having considered the brief facts of the case on the basis of which the Order-in-Original dated 23.08.2022 and the Order-in-Original dated 30.03.2023 have been passed by the respondent no. 4 and the respondent no. 5 respectively and considering the prima facie similarity therein, it is provided, in the interim, that till the returnable date, the respondent authorities shall not take any coercive action in terms of the impugned Order-in-Original dated 30.03.2023.

JUDGE

Comparing Assistant