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

Case No. : WA/325/2024

1.NUMALIGARH REFINERY LTD. AND 2 ORS.
A PUBLIC SECTOR UNDERTAKING, REGISTERED UNDER SEC. 617 OF THE COMPANIES ACT, 1956 HAVING ITS REGISTERED OFFICE 122A, G.S. ROAD, CHRISTIAN BASTI, GUWAHATI- 781005, REPRESENTED BY ITS MANAGING DIRECTOR.

2: THE SR. MANAGER MATERIALS
COMMERCIAL DEPARTMENT
NUMALIGARH REFINERY LIMITED
P.O. NUMALIGARH DIST. GOLAGHAT (ASSAM).

3: THE MANAGER MATERIALS
COMMERCIAL DEPARTMENT
NUMALIGARH REFINERY LIMITED
P.O.- NUMALIGARH DIST. GOLAGHAT (ASSAM)

VERSUS

1.IQUBAL SINGH AND ANR.
SON OF LATE I. SINGH R/O JPR ROAD,
(NEAR RICE MILL), JORHAT, ASSAM.

2:THE PR. COMMISSIONER OF CGST AND CENTRAL EXCISE
GUWAHATI GST BHAWAN (5TH FLOOR)
KEDAR ROAD MACHKHOWA
GUWAHATI PIN- 781001 (ASSAM)

For the Appellant(s) : Mr. R.S. Mishra, Advocate.
: Mr. D. Sahu, Advocate
: Ms. M. Gogoi, Advocate.

For the Respondent(s) : Mr. S.C. Keyal, Standing Counsel, GST for respondent No.2.

– BEFORE –
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

11.12.2024

(Vijay Bishnoi, CJ)

Mr. R.S. Mishra, learned counsel appearing for the appellants has submitted that the learned Single Judge, vide impugned order dated 12.05.2015 passed in WP(C) No.3165/2010, has illegally ordered to the appellant No.1 to refund the excise duty amount to the respondent No.1, namely, Iqubal Singh.

Learned counsel for the appellants has submitted that as per the CENVAT Credit Rules, 2004, the tax imposed on the waste and scrap is an indirect tax and the same is to be collected by the manufacturer from the consumer and thereafter, to deposit the same with the Central Excise Department. It is submitted that, as a matter of fact, the appellants have collected the said indirect tax to the tune of Rs.3,99,849/- from the respondent Iqubal Singh and has deposited the same with the Central Excise Department. It is submitted that the said amount is still lying with the Central Excise Department and even if the same is to be refunded then it can only be refunded by the Department.

Issue notice.

Mr. S.C. Keyal, learned Standing Counsel, GST accepts notice on behalf of respondent No.2.

Let notice be issued to respondent No.1 only, returnable on 05.02.2025.

Appellants to take steps for service of notice upon the respondent No.1 by registered post with A/D within a period of one week from today.

List this matter again on 05.02.2025.

In the meantime, the direction given by the learned Single Judge to the appellants vide impugned order dated 12.05.2015 passed in WP(C) No.3165/2010 to refund an amount of Rs.7,54,700/- to the respondent Iqubal Singh shall remain stayed.

JUDGE **CHIEF JUSTICE**

Comparing Assistant