

GAHC010218942025



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

Case No. : C.Ex.App./4/2026

COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX, DIBRUGARH
MILAN NAGAR, LANE F, SETHI TRUST BUILDING, 5TH FLOOR, G.S. ROAD,
BHANGAGARH, GUWAHATI-781005

VERSUS

M/S OIL AND NATURAL GAS COMMISSION LIMITED
SALES ACCOUNTS SECTION, FINANCE DEPARTMENT, ONGC COLONY,
DIST- SIVASAGAR, ASSAM- 785640

Advocate for the Petitioner : MR. S C KEYAL (SR. SC, CBIC CGST), KAUSHIK JAIN

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 02.04.2026
(M. Zothankhuma, J)

Heard Mr. S.C. Keyal, learned counsel for the appellant, who submits that the learned Appellate Tribunal has wrongly held that Section 11B of the Central Excise Act, 1944 is not attracted to the respondent's case.

2. The appeal is admitted on the following substantial questions of law:-
 - (i) Whether the provisions of Section 11B of the Central Excise Act, 1944, which prescribes a statutory time limit for claiming refund, are applicable in cases where tax or cess was paid under a mistake of law and whether refund claims in such circumstances are time barred even when the payment was made erroneously or without legal authority?
 - (ii) Whether the Appellate Tribunal erred in law in ignoring the statutory presumption of unjust enrichment embedded in Section 11B of the Central Excise Act, 1944, and in granting refund on the basis of a mere CA certificate but without recording a categorical finding supported by substantive evidence, whereas the respondent has failed to produce tangible and corroborative evidence that the incidence of EC and SHEC has not been passed on to any other person?
3. Issue notice upon the respondent, returnable on 20.05.2026. Steps for service of notice be taken by speed post, within 2 days.
4. List the matter on **20.05.2026.**

JUDGE

JUDGE

Comparing Assistant