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

Case No. : C.Ex.App./2/2026

COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX (NOW THE
PRINCIPAL COMMISSIONER)
CGST AND CENTRAL EXCISE, 5TH FLOOR, GST BHAWAN, KEDAR ROAD,
FANCY BAZAR, GUWAHATI-781001

VERSUS

M/S BRAHMAPUTRA CARBON LTD.
INDUSTRIAL ESTATE, NEW BONGAIGAON, BONGAIGAON-783380, ASSAM

Advocate for the Petitioner : MR. S C KEYAL, KAUSHIK JAIN

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

17.07.2026

(M. Zothankhuma, J)

1. Heard Mr. S.C. Keyal, learned counsel for the appellant, who submits that subsequent to the judgment passed in Special Civil Appeal Nos.2256-2263/2020 (Arising out of SLP (Civil) Nos.28194-28201/2010), which was decided on

22.04.2020, the interim order dated 13.01.2012 requiring the appellant to release to the respondent 50% of the refund claim made by the respondent no longer survives.

2. The learned counsel for the appellant submits that the challenge made by the respondent and others with regard to the Notifications dated 27.03.2008 and 10.06.2008, resulting in modification in the Arrear Based Exemption Scheme available under the earlier Notification dated 08.07.1999, having been dismissed, the amount of refund of excise duty paid on the actual manufacturing process of the goods only needs to be refunded. Accordingly, the impugned order passed in Final Order No.75714/2025 passed on 17.03.2025 by CESTAT, Kolkata has to be set aside, as the same has been made in pursuance to the interim order which had merged into the Final Order passed by the Hon'ble Supreme Court. The following Substantial Questions of Law have been proposed to be decided by the appellant, which are as follows :

“SUBSTANTIAL QUESTIONS(S) OF LAW

*(a) Whether the Appellate Tribunal was legally correct, under the facts and circumstances of the case, in holding that the **Respondent is entitled for 50% on value addition in terms of the interim Order passed by the Hon'ble Apex Court** on 13.01.2012 even when the issue of 50% refund has since been settled against the Claimants (of refund) and in favour of Revenue vide the final Judgement & Order dated 22 April 2020 passed by the Hon'ble Supreme Court in the matter of Union of India & Another vs. M/s VVF Ltd. & Another etc. etc. thus vacating the Interim Order dated 13.01.2012 and rendering the same infructuous and non-est in nature.*

(b) Whether the Appellate Tribunal was legally correct, under the facts and circumstances of the case, in upholding the Order in-Appeal No. 52/GHY/ CE(A)/ GHY/2015 dated 30.03.2015 passed by the Ld.

Commissioner (Appeals), which allowed the appeal of the respondent directing the Proper Officer for verification of refund amount claimed that pertains to refund of 50% of differential amount arising out of Hon'ble Apex Court's Interim Order dated 13.01.2012 which has been rendered infructuous by the final verdict dated 22.04.2020 pronounced by the Hon'ble Supreme Court in the matter of Union of India vs. M/s VVF Ltd."

3. Issue Notice returnable in 4 (four) weeks.
4. The appellant to take steps for service of notice upon the respondent by Speed post and usual process within 3 (three) days.
5. List the matter on 03.09.2026.

JUDGE

JUDGE

Comparing Assistant