GAHC010240692023

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

Case No. : WP(C)/6207/2023

N.E THERMION PVT. LTD
A COMPANY INCORPORATED UNDER THE COMPANIES ACT 2013 HAVING ITS INDURTRIAL UNIT AT DULIAJAN INDUSTRIAL GROWTH CENTRE COLLEGE ROAD DULIAJAN ASSAM PIN 786602 AND IN THE PRESENT PROCEEDINGS REP BY ONE OF ITS PARTNER JUGAL KISHORE MAHANTA

VERSUS

UNION OF INDIA AND 2 ORS
REP BY THE SECRETARY TO THE GOVT OF INDIA MINIRTRY OF FINANCE DEPTT. OF REVENUE NORTH BLOCK NEW DELHI 11001

2:PRINCIPAL COMMISSIONER CENTRAL GOODS AND SERVICE TAX
DIBRUGARH COMMISSIONERATE DIBRUGARH 786003 ASSAM

3:ASSISTANT COMMISSIONER
CENTRAL GOODS AND SERVICES TAX DIBRUGARH DIVISION
DIBURGARH 786003 ASSA

Advocate for the Petitioner : MR. S CHETIA

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

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 18-10-2023

Heard Mr. S. Chetia, learned counsel for the writ petitioner. Also heard Mr. S.C. Keyal, learned standing counsel appearing for the GST authorities.

It appears that in terms of the interim order dated 07-12-2015 passed by the Hon'ble Supreme Court directing the respondents to release 50% of the amount of refund payable under the Central Excise exemption Notification No. 32/1999-CE and No. 33/99-CE, the amount was refunded to the writ petitioner. However, subsequently, the SLP preferred by the department before the Supreme Court was allowed by judgment and order dated 22-04-2020, as a result of which, the department is now claiming interest on the refunded amount. The controversy in this writ petition is as to whether, the interest component would be payable w.e.f. the date of the refund or from the date of the judgment and order passed by the Supreme Court, i.e. 22-04-2020. According to the writ petitioner, the interest would be payable only w.e.f. the date of judgment and order, i.e. 22-04-2020 and not from the date of the refund.

Mr. Chetia further submits that similar writ petition raising the same issue, in the form of W.P.(C) No. 3131/2023 is pending before this Court wherein, an interim order is operating. Therefore, similar relief be granted to the petitioner as well.

Mr. S.C. Keyal, learned standing counsel, GST authorities is present and does not have objection if a similar order, as passed on 02-06-2023 in connection with W.P.(C) No. 3131/2023, is passed in this case as well.

In view of the above, issue notice of motion returnable in 04 weeks.

Since Ms. A. Gayan, learned CGC has accepted notice on behalf of respondent No.

1 and Mr. Keyal has accepted notice on behalf of respondent Nos. 2 and 3, service of notice is deemed to be complete in this case.

Extra copies of the writ petition, requisite in numbers, be furnished to the learned departmental counsel.

Heard on the prayer of interim relief.

Considering the facts and circumstances of the case in its entirety, it is hereby provided that since the petitioner is willing to pay interest w.e.f. the date of judgment and order dated 22-04-2020 on the refunded amount, the department to compute the amount payable for the said period and intimate the same to the petitioner through e-mail, within 10 days from date of this order. On receipt of such intimation, the petitioner shall deposit the interest amount, which would be subject to the outcome of the writ petition. Payment of the balance amount of interest, so demanded, shall remain stayed till disposal of the writ petition and the claim would abide by the final order to be passed in this proceeding.

JUDGE

GS

Comparing Assistant