

GAHC010275542024



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

Case No. : Revn.Pet./1/2024

HAWKINS COOKERS LTD
A COMPANY REGISTERED UNDER THE COMPANIES ACT 1956 HAVING ITS
REGISTERED OFFICE SITUATED AT MARKET TOWER F 101, CUFFE
PARADE, MUMBAI 400005 REPRESENTED BY SRI BRAHMANANDA PANI,
SENIOR VICE PRESIDENT, FINANCE AND ACCOUNT AND COMPANY
SECRETARY, ADDRESS NEW UDYOG MANDIR II, PITAMBER LANE,
MAHIM, MUMBAI 400016

VERSUS

1.THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, FINANCE
DEPARTMENT, ASSAM GUWAHATI

2:THE COMMISSIONER OF TAXES GUWAHATI

3:THE JOINT COMMISSIONER OF TAXES
KAR BHAWAN GUWAHATI ASSAM

Linked Case : Revn.Pet./4/2024

HAWKINS COOKERS LTD
A COMPANY REGISTERED UNDER THE COMPANIES ACT 1956 HAVING ITS
REGISTERED OFFICE SITUATED AT MARKET TOWER F 101
CUFFE PARADE MUMBAI 400005 REPRESENTED BY SRI BRAHMANANDA
PANI SENIOR VICE PRESIDENT FINANCE AND ACCOUNT AND COMPANY
SECRETARY ADDRESS NEW UDYOG MANDIR II
PITAMBER LANE MAHIM MUMBAI 400016

VERSUS

1.THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY

FINANCE DEPARTMENT ASSAM GUWAHATI

2:THE COMMISSIONER OF TAXESGUWAHATI

3:THE JOINT COMMISSIONER OF TAXES
KAR BHAWAN GUWAHATI ASSAM

Linked Case : Revn.Pet./3/2024

HAWKINS COOKERS LTD
A COMPANY REGISTERED UNDER THE COMPANIES ACT 1956 HAVING ITS
REGISTERED OFFICE SITUATED AT MARKET TOWER F 101
CUFFE PARADE MUMBAI 400005 REPRESENTED BY SRI BRAHMANANDA
PANI SENIOR VICE PRESIDENT FINANCE AND ACCOUNT AND COMPANY
SECRETARY ADDRESS NEW UDYOG MANDIR II PITAMBER LANE
MAHIM MUMBAI 400016

VERSUS

1.THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY
FINANCE DEPARTMENT ASSAM GUWAHATI

2:THE COMMISSIONER OF TAXES GUWAHATI

3:THE JOINT COMMISSIONER OF TAXES
KAR BHAWAN GUWAHATI ASSAM

Linked Case : Revn.Pet./2/2024

HAWKINS COOKERS LTD
A COMPANY REGISTERED UNDER THE COMPANIES ACT 1956 HAVING ITS
REGISTERED OFFICE SITUATED AT MARKET TOWER F 101
CUFFE PARADE MUMBAI 400005 REPRESENTED BY SRI BRAHMANANDA
PANI SENIOR VICE PRESIDENT FINANCE AND ACCOUNT AND COMPANY
SECRETARY ADDRESS NEW UDYOG MANDIR II
PITAMBER LANE MAHIM MUMBAI 400016

VERSUS

1.THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY
FINANCE DEPARTMENT ASSAM GUWAHATI

2:THE COMMISSIONER OF TAXESGUWAHATI

3:THE JOINT COMMISSIONER OF TAXES

KAR BHAWAN GUWAHATI ASSAM

Linked Case : Revn.Pet./5/2024

HAWKINS COOKERS LTD
A COMPANY REGISTERED UNDER THE COMPANIES ACT 1956 HAVING ITS
REGISTERED OFFICE SITUATED AT MARKET TOWER F 101
CUFFE PARADE MUMBAI 400005 REPRESENTED BY SRI BRAHMANANDA
PANI SENIOR VICE PRESIDENT FINANCE AND ACCOUNT AND COMPANY
SECRETARY ADDRESS NEW UDYOG MANDIR II
PITAMBER LANE MAHIM MUMBAI 400016

VERSUS

1.THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY
FINANCE DEPARTMENT ASSAM GUWAHATI

2:THE COMMISSIONER OF TAXES GUWAHATI

3:THE JOINT COMMISSIONER OF TAXES
KAR BHAWAN GUWAHATI ASSAM

For the Petitioner(s) : Mr. A. Goyal, Advocate.
: Mr. A. Choudhury, Advocate.
: Mr. D. Rathi, Advocate.
For the Respondent(s) : Mr. B. Gogoi, Standing Counsel, Finance and Taxation
Department.

– BEFORE –

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

06.01.2025

(Vijay Bishnoi, CJ)

These revision petitions are preferred by the assessee, Hawkins Cookers Ltd. against the impugned order dated 30.05.2024 passed by the Joint Commissioner of Taxes, Assam for different Assessment Years running from Assessment year 2005 -2006 to 2009-2010.

In these revision petitions, the office has raised an objection and insisted for filing condonation petition for a delay of 7 (seven) days.

It is pointed out by the office that as per Section 81 of Assam Value Added Tax Act, 2003, a revision petition can be filed before the High Court against the order of the Commissioner within 60(sixty) days after being notified the decision of the Appellate Tribunal. It is mentioned that the present revision petitions are not filed within 60 days from the date of notification of the impugned decision of the Appellate Tribunal.

Learned counsel appearing for the petitioners has argued that the delay caused in receiving the certified copy of the impugned order passed by the Commissioner is liable to be excluded from the period of limitation as per Section 12(2) of the Limitation Act, 1963. Learned counsel for the petitioners has placed reliance upon the decision of the Hon'ble Supreme Court rendered in ***Patel Brothers Vs. State of Assam & Ors.***, reported in **(2017) 2 SCC 350** and has argued that Section 4 and 12 of the Limitation Act, 1963 are to be applicable under the Assam Value Added Tax Act, 2003.

Learned counsel for the petitioners has, therefore, prayed that the office objection raised in all these revision petitions may kindly be waived.

Mr. B. Gogoi, learned Standing Counsel, Taxation Department appearing for the respondents has argued that since these revision petitions are not filed within 60 days from the date of notification of the impugned decision of the Appellate Tribunal, the office objection is not liable to be waived.

Having heard the learned counsel appearing for the parties and after taking into consideration the fact that if the time consumed in obtaining the certified copy of the impugned order is excluded, the revision petitions are very

well within the period of limitation as these revision petitions are filed within 60 days. The Hon'ble Supreme Court in **Patel Brothers** (supra) has also specifically held that Section 4 and 12 of the Limitation Act, 1963 are applicable under the Assam Value Added Tax Act, 2003 while referring to Section 81 and 84 of the Assam Value Added Tax Act, 2003.

In view of the above, we are of the view that the office objection raised in these revision petitions is to be waived. Hence, the same is waived.

Issue notice.

Mr. B. Gogoi, learned Standing Counsel, Finance and Taxation Department has entered appearance and accepted notice on behalf of the respondent Department. He prays for and is granted time to file counter to these revision petitions.

List these matters after 4(four) weeks.

JUDGE

CHIEF JUSTICE

Comparing Assistant