GAHC020006312025

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

Case No. : WP(C)/195/2025

DR. JOHN MURRY
S/O TSENSAO MURRY, H/NO. 74, NEAR C.R.C. CHURCH SOVIMA VILLAGE, CHUMOUKEDIMA, NAGALAND- 797103

VERSUS

UNION OF INDIA AND 4 ORS
REPRESENTED BY THE SECRETARY, FINANCE AND REVENUE, NEW DELHI

2:THE CHIEF COMMISSIONER OF INCOME TAX
N.E. REGION
GUWAHATI ASSAM- 781005

3:THE COMMISSIONER OF INCOME TAX (APPEALS)
NATIONAL FACELESS APPEAL CENTRE (NFAC)
DELHI

4:THE ASSESSING OFFICER
INCOME TAX DEPARTMENT
NATIONAL FACELESS ASSESSMENT CENTRE
DELHI

5:THE INCOME TAX OFFICER
WARD-1
PURANA BAZAR
DIMAPUR
NAGALAN

Advocate for the Petitioner : P. B. PAUL, CHUBANUNGKUM,MEDO VERO,PFOSEKHO PFOTTE

Advocate for the Respondent : CGSC,

BEFORE:

HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

O R D E R

06.10.2025

Heard learned counsel for the petitioner, Mr. P.B. Paul.

2. The present petition has been filed by the petitioner who claims to be a Lotha (Naga) by birth and a member of the Scheduled Tribe of Nagaland as provided under Article 366(25) of the Constitution of India. It is stated that the petitioner is permanently residing at Sovima Village under the Chumoukedima District of Nagaland and is a businessman by occupation, working for profit and business within the territory of the State of Nagaland.

3. It is submitted that the petitioner is running two pharmacies at Dimapur and one at Kohima, having Drug Licenses issued by the Drugs Control Administration, Directorate of Health & Family Welfare, Kohima, Nagaland. The Trade Licenses clearly indicate that the shops are situated at Dimapur and Kohima respectively. It is stated that the petitioner is also having a farmland measuring about 124 Bighas situated at Vidima Village, Chumoukedima, Nagaland, covered by Land Registration Certificate Serial No. 1035 dated 29.04.2017, and also certified to be the rightful owner of the plot of land located at Vidima Village, Chumoukedima, Nagaland by the Chairman, Vidima Village Council, wherein the petitioner undertakes agricultural activities like piggery, fishery etc. The petitioner also has bank accounts in the banks situated within the State of Nagaland and the petitioner earns bank interest from these banks situated in Nagaland. The petitioner had furnished return of income for the Assessment year 2022—2023 to the tune of Rs. 10,69,04,285/- (Rupees Ten crore sixty-nine lakhs four thousand two hundred eighty-five only). Since the income of the petitioner was derived from within the State of Nagaland the petitioner therefore claimed exemption from tax assessment under Section 10(26) of the IT Act, 1961. The petitioner in response to a notice from the Income Tax Authority also clarified about his ST status and the source of income. However, the Assessment Officer of the Income Tax Department made assessment disregarding the fact that the petitioner belongs to the Scheduled Tribe and his source of income is derived from the Scheduled Area of Nagaland and also held that the agricultural income of the petitioner cannot be accepted as the petitioner's land document were not in order as in other parts of the country.

4. Being aggrieved by the assessment order of the Income Tax Authority, the petitioner also preferred a statutory appeal under Section 246 of the Income Tax Act before the Commissioner of Income Tax (Appeals) but the said appellate authority without considering the fact of the petitioner being exempted from Income Tax upheld the assessment order of the Income Tax Authority. Thereafter, the petitioner has been served with a demand notice for making payment of Income Tax amounting to Rs. 8,93,02,687/- (Rupees Eight crores ninety-three lakhs two thousand six hundred eighty-seven only) for the assessment years 2022—2023 and also a penalty of Rs. 60,64,588/- (Rupees sixty lakhs sixty-four thousand five hundred eighty-eight only) ignoring the fact that the petitioner is exempted from income tax under Section 10(26) of the Income Tax Act, 1961 in as much as the petitioner is a member of the Scheduled Tribe and he derives his income from within the State of Nagaland.

5. The petitioner has, therefore, prayed for:-

i) Quashing and setting aside the impugned assessment order dated 11.03.2025 passed by the Assessing Officer, Assessment Unit, Income Tax Department, National Faceless Assessment Center, Delhi.

ii) Quashing and setting aside the impugned notice of demand dated 11.03.2025 issued by the Assessing Officer, Assessment Unit, Income Tax Department, National Faceless Assessment Center, Delhi.

iii) Quashing and setting aside the impugned demand notice No. ITBA/PNL/S/156/2025-26/1079982750(1) dated 25.08.2025 issued by the Assessment Unit, Income Tax Department.

iv) Quashing and setting aside the impugned demand notice No. ITBA/PNL/S/156/2025-26/1079983093(1) dated 25.08.2025 issued by the Assessment Unit, Income Tax Department.

v) Quashing and setting aside the impugned demand notice No. ITBA/PNL/S/156/2025-26/1079985683(1) dated 25.08.2025 issued by the Assessment Unit, Income Tax Department.

vi) Quashing and setting aside the impugned demand notice No. ITBA/PNL/S/156/2025-26/1080074971(1) dated 27.08.2025 issued by the Assessment Unit, Income Tax Department.

6. Issue notice returnable within 4 (four) weeks. It is stated that the notice on respondent no. 1 has been served on the learned CGSC, Mr. Yangerwati. The petitioner shall take steps for service of notice on the respondent nos. 2 to 5 by Registered Post with A/D as well as through usual process within 3 (three) working days.

7. Till the next returnable date, the impugned Assessment Order dated 11.03.2025, the impugned Notice of Demand dated 11.03.2025, the impugned Demand Notices dated 25.08.2025 and 27.08.2025 shall remain suspended.

JUDGE

Comparing Assistant