(2026) 08 GAU CK 3914

In the Gauhati High Court

Case No : WP(C)/952/2026

Nesar Ahmed — APPELLANT

Vs

Assistant Commissioner Of State Tax & Ors. — RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:
Assam Goods and Services Tax Act, 2017 — Section 74

Citation : (2026) 08 GAU CK 3914

Hon'ble Judges : Devashis Baruah, J

Bench : Single Bench

Advocate : Mr. M. Khan, Mr. B. Gogoi

Final Decision : Disposed Of

Judgement

HON’BLE MR. JUSTICE DEVASHIS BARUAH

Heard Mr. M. Khan, the learned counsel appearing on behalf of the Petitioner and Mr. B. Gogoi, the learned Additional Advocate General appearing on behalf of the Respondent Nos. 1, 2 and 3.

2. The present writ petition has been filed by the Petitioner challenging the Demand cum Show Cause Notice dated 04.10.2025 issued by the Respondent No.1 under Section 74 of the Assam Goods and Services Tax Act, 2017 (for short ‘the Act of 2017’) for the Financial Year 2024-25.

3. Mr. M. Khan, the learned counsel appearing on behalf of the Petitioner submitted that the proceedings under Section 74 of the Act of 2017 could not have been initiated on the ground that previously a proceedings was initiated for cancellation of the registration and the Petitioner upon submitting the reply, the proceedings for cancellation of the Registration was dropped vide an order dated 09.05.2025. The learned counsel for the Petitioner therefore submitted that fresh proceedings under Section 74 of the Act of 2017 could not have been initiated.

4. The submission so made by the learned counsel for the Petitioner is

fundamentally misconceived inasmuch the proceedings for cancellation of the registration is completely contrary to a proceedings for adjudication on the question of non-payment of tax or short payment of tax or tax being erroneously refunded or where Input Tax Credit have been wrongly availed or utilized by reason of fraud or any willful misstatement or suppression of fact to evade tax.

5. At the time of dictating the judgment, Mr. M. Khan, the learned counsel for the Petitioner submitted that on account of not providing appropriate legal advice, the Petitioner should not suffer and therefore, the Petitioner should be granted an opportunity to file the reply to the Demand cum Show Cause notice dated 04.10.2025.

6. This Court enquired with Mr. B. Gogoi, the learned Additional Advocate General appearing on behalf of the Finance and Taxation Department of the Government of Assam as to whether any order has been passed pursuant to the impugned Demand cum Show Cause notice dated 04.10.2025. Mr. B. Gogoi, the learned Additional Advocate General submitted that to his instructions, no order has been passed in pursuance to the Demand cum Show Cause Notice dated 04.10.2025.

7. Accordingly, this Court therefore disposes of the instant writ petition with the following observations and directions:

(i) The challenge to the Demand cum Show Cause Notice dated 04.10.2025 is without any merit and accordingly, the said challenge stands rejected.

(ii) For the ends of justice, this Court grants the Petitioner an opportunity of 30 days from today to file reply to the Demand cum Show Cause Notice dated 04.10.2025 raising all such contentions as permissible under law.

(iii) Taking into account that this Court had put the clock back thereby permitting the Petitioner to submit reply to the Demand cum Show Cause Notice dated 04.10.2025, this Court observes that the period from 05.10.2025 till date, be excluded while computing the period of limitation for passing the order in respect to the adjudication to be carried out on the basis of the Demand cum Show Cause Notice dated 04.10.2025.