

GAHC010146392020



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

**Case No. : WP(C) 4334/2020**

1:BARAK VALLEY CEMENTS LTD  
A COMPANY INCORPORATED UNDER THE COMPANIES ACT, 1956 AND  
HAVING ITS REGISTERED OFFICE AT 202, ROYAL VIEW, B.K. KAKOTI  
ROAD, ULUBARI, GUWAHATI, DIST-KAMRUP (M), ASSAM AND ITS  
INDUSTRIAL UNIT AT DEBENDRANAGAR, JHOOM BASTI,  
BADARPURGHAT, DIST-KARIMGNAJ, ASSAM. REPRESENTED BY SRI  
BANWARILAL PAREEK, THE MANAGER OF THE PETITIONER COMPANY

VERSUS

1:THE UNION OF INDIA AND 5 ORS.  
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,  
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, NORTH BLOCK,  
NEW DELHI-110001

2:SECRETARY TO THE GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE AND INDUSTRY  
DEPARTMENT OF INDUSTRIAL POLICY AND PROMOTION  
UDYOG BHAWAN  
NEW DELHI-110011

3:JOINT SECRETARY TO THE GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE AND INDUSTRY  
DEPARTMENT OF INDUSTRIAL POLICY AND PROMOTION  
UDYOG BHAWAN  
NEW DELHI-110011

4:COMMISSIONER  
CENTRAL GOODS AND SERVICE TAX  
GST BHAWAN  
KEDAR ROAD  
FANCY BAZAR  
GUWAHATI-781001

5:ASSISTANT COMMISSIONER  
CENTRAL GOODS AND SERVICES TAX AND CENTRAL EXCISE DIVISION  
SILCHAR

6:CENTRAL BOARD OF EXCISE AND CUSTOMS  
REPRESENTED BY ITS CHAIRMAN  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
NORTH BLOCK  
NEW DELHI-11000

**Advocate for the Petitioner** : DR. ASHOK SARAF

**Advocate for the Respondent** : MR. S C KEYAL (SC, GST)

**BEFORE**  
**HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

**ORDER**

**Date : 14-10-2020**

Heard Dr. A. Saraf, learned Senior Counsel assisted by Mr. S. P. Sarma, Advocate.

This writ petition has been filed by the petitioner being aggrieved by the e-mail dated 08.10.2020 issued by the respondent/authorities.

The contents of the e-mail are extracted as under:—

*“Dear Sir/Madam,*

*In terms of Rule 138 E (b) of the CGST Rules, 2017, the E Way Bill generation facility of a person is liable to be restricted, in case the person fails to file their GSTR-3B returns, for a consecutive period of two months or more.*

*As you might be aware that the GST Council in its last meeting has decided that this provision will be made applicable for the taxpayers whose Aggregate Annual Turn Over (AATO, PAN based) is more than Rs 5 Crores.*

*Thus, if the GSTIN associated with the respective PAN (with AATO over Rs.5 Cr.) has failed to file their GSTR-3B Return for 02 or more tax periods, up to the month of tax period of August, 2020, their EWB generation facility will be blocked on the EWB Portal. Please note that the EWB generation facility for such*

*GSTINs (whether as consignor or consignee of by transporter) will be blocked on EWB Portal after 15<sup>th</sup> October, 2020.*

*To avail continuous EWB generation facility on EWB Portal, you are therefore advised to file your pending GSTR 3B returns immediately.*

*Please ignore this mail if:*

- 1) You are not registered on the EWB portal or*
- 2) You have already filed your GSTR-3B Return for August, 2020 or*
- 3) Your AATO (PAN based) is below Rs.5 Cr.*

*Thanking you,*

*Team GSTN"*

By the said e-mail, the petitioners were informed that unless they clear their GSTR-3B return for 02 or more tax periods upto August, 2020, their EWB generation facility will be blocked on the EWB portal. If the petitioner company fails to pay as informed then the EWB portal will be blocked after 15<sup>th</sup> October.2020. It is case of the petitioner that at present several applications submitted by Petitioner Company for refund under the Budgetary Support Scheme are pending before the respondent/authorities unattended. According to the petitioner an amount to the tune of Rs. 14,42,51,265/- according to the petitioner is yet to be received by them as claimed under budgetary support scheme, which have not been released/decided upon by the respondent/authorities. The learned counsel for the petitioner submits that as compared to the huge amount of refund claimed by the petitioner and which have continued to remain pending before the authorities undecided, the amount payable by the petitioner as on date is to the tune of about 11 crore rupees, which is much less than the amount receivable by the petitioner under the Budgetary Support Scheme. The learned Senior Counsel appearing for the petitioner submits that the attempted blockage of the EWB portal in terms of the e-mail dated 8<sup>th</sup> of October, 2020 is highly unjust and will virtually ensure closure of their business.

Mr. S. C. Keyal, learned Standing counsel, GST Department submits that he be permitted time till 19<sup>th</sup> of October to obtain the required instructions in the matter.

Accordingly upon hearing the learned counsel for the parties, list the matter again on 19<sup>th</sup> October, 2020 for further orders.

In the meantime, no coercive action shall be taken against the petitioner in terms of the e-mail dated 08.10.2020 issued by the GST Department (Annexure XVI Page 178) of the writ petition.

In order words the EWB Portal of the petitioner shall not be blocked until further order(s) from this Court.

List accordingly.

**JUDGE**

**Comparing Assistant**