Srl. No.28
**24.01.2024**
**SB-III**
SH

**Calcutta High Court**
**In the Circuit Bench at Jalpaiguri**
**Appellate Jurisdiction**

**W.P.A 88 of 2024**

**M/s. Sanjeevani Gum Udyog**
**-versus**
**The State of West Bengal & Ors.**

**Mr. Dhiraj Lakhotia**
**Ms. Radhika Agarwal**
**Mr. Ashok Goel**
**Ms. Meghana Joshi**
**... for the petitioner.**

**Mr. Momenur Rahman**
**Ms. Rima Sarkar**
**... for the State.**

**Mr. Ratan Banik**
**... for the respondent nos. 2 & 3.**

Supplementary affidavit filed by the petitioner is taken on record.

The petitioner is aggrieved by the act of the adjudicating authority and the appellate authority in passing order without considering the submission made by the petitioner for considering the GSTR-9C which was submitted by it.

The petitioner admits that there has been short deposit of the tax due to inadvertence. The mistake was rectified by filing GSTR-9C. The same was not taken up for consideration either by the adjudicating authority or the appellate authority.

The petitioner relies upon the guidelines issued by the Central Board of Indirect Taxes and Customs dated January 7, 2022 relating to the recovery proceedings.

The guidelines mention that there may be genuine reason for difference between the details of the GSTR-1 and GSTR-3B. The Central Board of Indirect Taxes and Customs, GST policy wing mentioned in the guidelines that in all such cases an opportunity needs to be provided to the concerned registered person to explain the differences between GSTR-1 and GSTR-3B, if any, and for short payment of the amount of self-assessed tax liability and interest thereon.

Learned advocate representing the respondents seeks time to file affidavit-in-opposition. As it appears that there is hardly any dispute in the factual aspects and it is apparent that the submission of the petitioner as recorded hereinabove was not taken into consideration by the respondents at the time of adjudication of the case, accordingly, keeping the writ petition pending with direction for filing affidavit will only delay the issue and not serve any other purpose.

It appears from the documents placed before this Court that the petitioner relied upon the GSTR-9C in support of the short payment made by it. The same does not appear to have been considered by any of the respondent authorities.

In view of the above, the order passed by the adjudicating authority and the appellate authority are set aside. The adjudicating authority is directed to revisit the issue after taking into consideration the GSTR-9C submitted by the petitioner. An opportunity of hearing shall be given to the petitioner place all documents in support of its claim.

A decision shall be taken at the earliest but positively within a period of eight weeks from the date of communication of this order.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**( Amrita Sinha, J.)**