12.06.2024
Sl. No.57(DL)
srm

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

W.P.A. No. 649 of 2024

Manish Agarwal

Versus

Assistant Commissioner of Revenue, SGST, Siliguri Charge & Ors.

Mr. Boudhayan Bhattacharyya,
Ms. Stuti Bansal,
Ms. Abhishruti Basu
…for the Petitioner.

Mr. Subir Kumar Saha, ld. AGP
Mr. Dilip Kumar Agarwal
...for the State-respondents.

Mr. Ratan Banik,
Mr. Bishwaraj Agarwal
...for the Respondent Nos.4 & 6.

1. The petitioner contends that the input tax credit claim was disallowed by the adjudicating authority as also the appellate authority. The ground was that in the absence of documents with regard to transportation etc. the claim for input tax credit could not be substantiated.
2. Although, the petitioner claims that the goods were transported by vehicle No.WB 59B 4943 and the payment was made through the bank, the petitioner had failed to submit any supporting documents regarding movement

of goods or receipt of the goods, namely consignment of delivery challan, acknowledgements, payment of freight, etc. According to the authority, the High Court had held that the input tax credit could be allowed in such cases, if upon verification of the relevant documents, the transactions were proved to be genuine.

3. The petitioner contends that all relevant documents which were required for claim of input tax credit are available with the petitioner, but out of ignorance those were not produced before the authority.
4. Under such circumstances, this Court is of the view that justice and equity demands that a last opportunity should be given to the petitioner to produce the documents which he wishes to rely on in support of his claim for input tax credit, pertaining to transport.
5. It is also contended by the petitioner that the purchase of the goods were made from a dealer whose licence had not been cancelled at the time of purchase.
6. In any event, both these issues shall be decided afresh by the adjudicating authority.
7. Accordingly, both the orders impugned are set aside.
8. The adjudicating authority shall proceed afresh in accordance with law from the stage of adjudication. The

petitioner will be entitled to file all relevant documents which he wishes to rely on to support his claim for input tax credit. The authority shall decide the issue independently, upon taking into consideration the documents. The question whether the cancellation of the licence of the dealer was subsequent to the petitioner having purchased the goods, or not and whether purchase was valid or not shall also be adjudicated.

9. A reasoned order shall be passed by the adjudicating authority afresh and the entire exercise shall be completed within a period of three months from the date of communication of this order.

10. The writ petition is, thus, disposed of.

11. There shall be no order as to costs.

12. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)