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30.04.2025
d.p.

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A 478 of 2025

M/s. Sunita Stone Gravels
-versus
Assistant Commissioner of Revenue & Ors.

Mr. Sandip Choraria,
Mr. Rajeev Parik,
Ms. Riya Agarwal.
...For the Petitioner.

Ms. Rima Sarkar.
...For the State.

1. The order passed by the adjudicating authority affirmed by the appellate authority is impugned herein.

2. The charge against the petitioner is of fraud, willful misstatement and suppression of facts to evade tax.

3. Learned advocate appearing on behalf of the petitioner submits that all the demand raised by the authority has been paid by the petitioner after the show cause notice was issued. The allegation of fraud, willful misstatement and suppression of facts has been denied.

4. Upon hearing the submission made on behalf of parties, it appears that indeed there is no finding or adjudication with regard to the allegation leveled against the petitioner.

5. The appellate authority records in the order that it has become difficult to ascertain that the

payment made in GST DRC-03 is meant for the demand created through DRC 07.

6. The authority found that there is a clear contradiction between the payments made by the petitioner in different forms.

7. It does not appear that there is any element of fraud, willful, misstatement or suppression of facts that has been adjudicated by the appellate authority.

8. In view of the above, the impugned order of the appellate authority dated 19th December, 2023 is set aside.

9. The matter is remanded back to the appellate authority to consider as to whether the charges leveled against the petitioner are proper or not.

10. Fair opportunity of hearing shall be given to the petitioner prior to final disposal of the appeal. The petitioner shall be permitted to rely upon all documents in support of his stand before the appellate authority.

11. The writ petition stands disposed of.

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

(Amrita Sinha, J.)