S/L 32
13.05.2025
Court No.2
(Susanta)

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION

WPA 1064 of 2025

M/s Brothers Hardware
Vs.
The Senior Joint Commissioner of Revenue & Ors.

Mr. Jagiriti Mishra,
Ms. Ananya Bhattacharya,
Ms. Mrinmayee Das, ... *For the Petitioner.*

Mr. Pretom Das,
Ms. Rima Sarkar, ... *For the State.*

Affidavit-of-service filed on behalf of the petitioner be kept with the record.

A notice dated December 19, 2023 under Section 73 of the West Bengal Goods and Services Tax, 2017 (hereinafter referred to as the **'said Act of 2017'** in short) was served upon the petitioner demanding payment of Rs. 20,36,089.10/- (Twenty lakhs thirty-six thousand eighty- nine rupees and ten paise only) on account of tax, interest and penalty for the financial year 2018-19.

The grievance of the petitioner is that though it has replied to the said notice but the Joint Commissioner of Revenue, State GST, Jalpaiguri Circle, the adjudicating authority, by the order dated January 29, 2024, has disposed of the said notice determining the liability of the petitioner to the tune of Rs. 20,36,089.10/- (Twenty lakhs thirty-six thousand eighty-nine rupees and ten paise only).

The petitioner, aggrieved by such determination, had preferred an appeal before the Appellate Authority under Section 107 of the said Act of 2017 being Appeal case No: AD1902240131230.

The Senior Joint Commissioner of Revenue, Jalpaiguri Circle, by the order impugned dated October 23, 2024 has disposed of the said appeal, thereby reducing the said demand to Rs. 16,85,270.00/- (Sixteen lakhs eighty-five thousand two hundred and seventy rupees only).

The said order of the Appellate Authority is under challenge.

Mr. Mishra, learned advocate for the petitioner submits that the petitioner did not get the opportunity to demonstrate that the figures in the GSTR-1 are erroneous as would be evident from the audited turnover disclosed in GSTR-3B and GSTR-9, he prays that a further opportunity may be given to the petitioner to place its case.

Ms. Rima Sarkar, learned advocate for the State GST authority submits that to get the opportunity to rectify the errors in the returns, the petitioner is required to apply in terms of Sections 37(3) / 39(9) of the said Act of 2017 and if such an application is made, the relevant portal can be opened for the rectification subject to the period of limitation.

The petitioner is granted liberty to file an appropriate application for rectification of the said errors **within a period of one week from date**, if such an application is made, the adjudicating authority shall decide the same in accordance with law and to facilitate such exercise, the order impugned is set aside.

WPA 1064 of 2025 is disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)