Item No. 12

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IN THE HIGH COURT OF JUDICATURE AT CALCUTTA

CIRCUIT BENCH AT JALPAIGURI

CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

HEARD ON: 12.07.2022

DELIVERED ON: 12.07.2022

CORAM:

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

WPA 1611 of 2022

T.M.C. – HI - TECH.
VERSUS
Assistant Commissioner State GST, Cooch Behar Charge & Ors.

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Appearance:-
Mr. Jagriti Mishra,
Mr. Anup Bhattachharya,
Mr. Subham Gupta,
Mr. Debayan Goswami,
Mr. Reshab Kumar .....for the Petitioner

Mr. Subir Kumar Saha, Ld. A.G.P.,
Mr. Bikramaditya Ghosh .. for the State.

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JUDGMENT

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(Judgment of the Court was delivered by **HIRANMAY BHATTACHARYYA, J.)**

1. This petition has been filed praying for issuance of a writ of mandamus to command the respondents to allow rectification and / or correction of the GSTR – 1 form either manually or through portal.

2.   The petitioner claims to be a general works contractor engaged in different infrastructure projects of the Government including bridges. The petitioner claims that it had received a contract from Mackintosh Burn Limited being the respondent no.2 herein and while submitting GST returns for the months of November, 2018 and August, 2019 through online portal, certain inadvertent mistakes were committed by showing the outward supply in B2C column instead of B2B and therefore, the recipient, i.e. the respondent no.2 is unable to find the same in GSTR-2A for which the respondent no.2 made a short payment to the extent of the tax component. It is the further case of the petitioner that the respondent no.2 advised the petitioner to correct the said GSTR – 1 return but the petitioner is not getting access through online portal for rectifying such mistake. The petitioner submitted a representation dated November 12, 2021 before the Assistant Commissioner State GST, Cooch Behar Charge being the respondent no.1 herein requesting such authority to allow rectification of return in GSTR- 1 for the months of November, 2018 and August, 2019 respectively.

3.   Mr. Mishra, learned Advocate appearing for the petitioner submits that representation of the petitioner was received by the respondent no.1 herein. A reminder was also submitted thereafter. However, the respondent authority is yet to

communicate its decision with regard to the petitioner's prayer for rectification of the return in GSTR – 1. Mr. Mishra further relies upon the judgment dated December 14, 2021 passed by the Hon'ble Division Bench in a batch of appeals being **MAT 552 of 2020 with I.A. CAN 1 of 2020 and I.A. CAN 2 of 2020 (Nodal officer, Jt. Commissioner, IT Grievance, GST Bhawan Vs. M/s. Das Auto Centre)** and submits that the petitioner may be allowed to submit fresh GSTR – 1 return.

4. Mr. Saha, learned Additional Government Pleader duly assisted by Mr. Ghosh, learned Advocate submits that since no decision on the petitioner's representation has been taken as yet by the respondent authorities, a direction may be passed upon the concerned respondent to take a decision with regard to the petitioner's prayer.

5. Accordingly, WPA 1611 of 2022 is disposed of by directing the Assistant Commissioner State GST, Cooch Behar Charge being the respondent no.1 herein to consider the representation dated November 12, 2021 which is annexed as Annexure "P/4 at page 60 of the writ petition and to dispose of the same by passing a reasoned order after giving an opportunity of hearing to the petitioner and / or its authorized representative and to communicate the same to the petitioner.

6.	It will be open to the petitioner to raise all issues both factual and legal at the time of such hearing and the petitioner will also be at liberty to rely upon any decision of the Court of law at the time of hearing.

7.	The entire exercise shall be completed by the respondent no.1 within a period of four weeks from the date of this order.

8.	There shall be no order as to costs.

9.	Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(HIRANMAY BHATTACHARYYA, J.)

Naren, AR(Ct.)