

S/L 38
04.01.2021
Court No.26
SD

**WPA 236 of 2020
(Via Video Conference)**

Abdul Mannan Khan
Vs.
The Goods & Services Tax Council & Ors.

Mr. Debanuj Basu Thakur

...for the Petitioner.

*Mr. Abhratosh Majumdar
Mr. T.M. Siddiqui
Mr. Avra mazumder*

...for the State.

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by a communication dated November 26, 2019 of the SGST authorities with regard to the rejection of the claim of the petitioner for rectification of accounts for the period of January 2018 to March 2018.

The case of the petitioner is that inadvertently a particular sale made to M/s. Bharat Exports was uploaded as unregistered sale though the said company was a registered company. Subsequently, in September 2019, that is, after 1½ years of the period concerned, M/s. Bharat Exports informed the petitioner that they were not getting credit of the input Tax Credit due to inadvertent mistake of the petitioner. The petitioner thereafter made an application seeking rectification of the GSTR-1 Form for the period of January 2018 to March 2018. This application was rejected on the ground that the period for making such an application

expired at the end of September 2018 as per Section 37 of the West Bengal Goods and Services Tax Act, 2017.

The relevant Section and proviso are delineated hereinbelow:-

“37(3) - Any registered person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

PROVIDED that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.”

It is to be noted that the Act does not provide any provision for appeal. Furthermore, there is no provision for condoning of such a delay.

Under these circumstances, I see no reason to interfere as the statute has provided a period of limitation for seeking rectification. The writ court cannot, by itself, condone such a limitation period. Condoning such delay would make the provision otiose and open the floodgates for similar cases.

In light of the above, WPA 236 of 2020 stands dismissed.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)