



2026:UHC:1044-DB

**IN THE HIGH COURT OF UTTARAKHAND**  
**AT NAINITAL**  
HON'BLE THE CHIEF JUSTICE SRI MANOJ KUMAR GUPTA  
AND  
HON'BLE SRI JUSTICE SUBHASH UPADHYAY

**17<sup>TH</sup> FEBRUARY, 2026**

**WRIT PETITION (M/B) No. 885 OF 2025**

Kamal Kumar

...Petitioner.

Versus

Assistant Commissioner, State Goods and Service Tax,  
Sector-8, Dehradun, Uttarakhand. ...Respondent

Counsel for the petitioner : Sri Rohit Arora, learned counsel.

Counsel for the respondent : Ms. Puja Banga, learned Brief Holder  
for the State of Uttarakhand.

**JUDGMENT : (Per Sri Manoj Kumar Gupta, C.J.)**

1. Present writ petition has been filed praying for the following reliefs:

*“(i) Issue a writ, order or direction, in the nature of certiorari quashing the impugned Order of rejection of application for rectification issued by the Respondent bearing No. ZD050825001808C dated 02.08.2025 (ANNEXURE-2);*

*(ii) Issue a writ, order or direction, in the nature of certiorari quashing the Order issued under section 74, GST Act 2017 along with the Summary of the Order vide FORM GST DRC-07 bearing reference no. ZD0512220050580 dated 14/12/2022 (ANNEXURE-3);*

*(iii) Issue a writ, order or direction, in the nature of mandamus directing the Respondents to consider the matter of the petitioner afresh;*

*(iv) Issue a writ, order or direction, in the nature of mandamus directing the Respondents to restrain from taking any coercive step against the Petitioner in regard to the impugned Order of rejection of application for rectification issued by the Respondent bearing No. ZD050825001808C*



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*dated 02.08.2025 (ANNEXURE-2) and Order issued under section 74, GST Act 2017 along with the Summary of the Order vide FORM GST DRC-07 bearing reference no. ZD0512220050580 dated 14/12/2022 (ANNEXURE-3);"*

2. It is not disputed before us that the petitioner has availed input tax credit, which, according to the Department was based on alleged supplies by a non-existent entity. Thereafter, the Department issued Show Cause Notice dated 15.03.2022 raising demand of CGST and penalty. The petitioner is stated to have filed a reply on 23.03.2022. A second Show Cause Notice was issued on 03.06.2022 followed by the third Notice dated 06.06.2022.

3. According to the petitioner, on 13.06.2022 it deposited Rs. 5,40,000/- under the IGST through its Cash Ledger. However, without considering the said fact and the explanation given by the petitioner-firm, the impugned order dated 14.12.2022 was passed. On 25.03.2025 the petitioner was issued a Show Cause Notice for cancellation of GST registration on the ground of default in payment of GST dues. The petitioner-firm on 02.04.2025 filed an Application for rectification. Additional documents were filed on 03.07.2025. On 2<sup>nd</sup> August, 2025, the Department passed the order rejecting the Rectification Application on the ground that it was filed beyond the prescribed period.

4. Learned counsel for the petitioner submitted that the petitioner-firm has already deposited the entire amount and in such circumstances, the Application of the petitioner for rectification should have been decided on merits, instead of going into technicalities.



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5. The fact relating to the petitioner-firm having made deposits of the alleged amount due against it does not find mention in the impugned order dated 02.08.2025.

6. As the said fact would have material bearing, therefore, we set aside the impugned order dated 02.08.2025 and permit the petitioner to file a fresh application, along with evidence regarding the deposit made, in which event, the Application for rectification would be examined on merits without raising any objection regarding limitation and shall be decided by a speaking order after affording opportunity of hearing to the petitioner.

7. In view of the above, the instant writ petition stands allowed to the extent stated above.

8. Pending application, if any, also stands disposed of accordingly.

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**MANOJ KUMAR GUPTA, C.J.**

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**SUBHASH UPADHYAY, J.**

Dt: 17<sup>th</sup> February, 2026  
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