

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
THE HON'BLE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA
AND
THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY
Writ Petition (M/B) No.187 of 2026
23 March, 2026

A.S. Traders

-----Petitioner

Versus

State of Uttarakhand and Others

-----Respondents

Presence:-

Mr. Pulak Raj Mullick and Mr. Sahil Mullick, learned counsel for the petitioner.

Ms. Puja Banga, learned Brief Holder for the State of Uttarakhand/ respondent nos.1 to 4.

JUDGMENT: (per Mr. Manoj Kumar Gupta C. J.)

1. Heard learned counsel for the petitioner and learned State Counsel.

2. The following prayers have been made in the writ petition:

“(a) issue a writ, order or direction, in the nature of certiorari, quashing the Ex-parte Assessment Show cause notice (including Form - DRC-01A (u/s 74(5) of the UKGST Act, 2017) (Annexure no. 4(colly)), r/w Ex-parte Assessment order u/s 74(9) dated 23.02.2024 passed by respondent no. 3 for the Assessment year 2021-22, imposing heavy ex-parte demands (Annexure no. 5(colly)); and the consequent Recovery proceedings being initiated by respondent no. 4 consequent to the Citation of Recovery certificate dated 23.02.2024 for AY 2021-22, issued by respondent no. 3 (Annexure No. 6);

(b) issue a writ, order or direction in the nature of mandamus, remanding the Assessment proceedings back to respondent no. 3 namely the Deputy Commissioner (Assessment), Sector-8, Dehradun for denova assessment proceedings for the Assessment Year 2021-22, for passing Assessment order, after proper

opportunity of hearing, as contemplated u/s 75(4) & (5) of the UKGST Act, 2017;”

3. The petitioner was a sole proprietorship concern and was engaged in business of all kinds of iron scrap.

4. The case of the petitioner is that during Covid-19 pandemic the business got adversely affected and, therefore, he submitted application for surrendering the registration certificate dated 14.08.2020.

5. A field survey was conducted by an Assessing Officer and, thereafter, vide communication dated 09.05.2023 petitioner was intimated that his registration has been cancelled w.e.f. 31.03.2023. After the cancellation of the registration certificate for the reason that the petitioner had stopped the business, the respondents are stated to have served a show-cause notice dated 11.01.2024 on the petitioner by uploading the same on GST Portal alleging that the petitioner had failed to pay the tax for the business during the financial year 2021-2022.

6. The specific case of the petitioner is that he could not come to know of the show-cause notice as well as the proceedings held by respondent no.3 in view of the fact that his GST registration was cancelled w.e.f. 31.03.2023 and, thereafter, there was no occasion on part of the petitioner to keep track of the GST Portal. In support of his submission, he has placed reliance on the various judgments of the Allahabad High Court,

particularly, in ***M/s Ahs Steels vs. Commissioner of State Taxes (Writ Tax No.1676 of 2024)*** and ***M/s Katyal Industries vs. State of U.P. and others (Neutral Citation No.2024:AHC:23697-DB)***, wherein the Allahabad High Court, after considering the decisions of the Apex Court, has observed as follows:-

“25. The twin issues which, therefore, arise for determination before this Court are: (i) whether the service of notices exclusively through the GST portal, in the circumstances of the present case where registration of the Petitioner stood cancelled, can be regarded as valid service under Section 169 of the CGST Act; and (ii) whether the impugned order suffers from violation of the statutory mandate under Section 75(4) requiring an opportunity of personal hearing.

26. Section 169 of the CGST Act prescribes multiple modes for valid service of notice, including (a) direct tender to the assessee, manager, authorized representative or family member, (b) registered or speed post or courier; (c) communication through email, (d) making it available on the common portal; and (e) by affixation or publication in a newspaper, if other modes are not practicable. The legislative intent is clear: while making a notice available on the common portal is one permissible method, it is not the exclusive method, and the Department is duty-bound to ensure effective service in a manner that actually communicates the notice to the assessee.

27. In the instant case, the Petitioner's registration stood cancelled since 2018, and therefore, the Petitioner was not enjoined to monitor the GST portal. The insistence by the Department that portal-based service alone sufficed amounts to imposing a duty on a nonregistered person, which the law does not contemplate. The decisions relied upon by the learned counsel for the Petitioner are directly on point.

28. In light of the above discussion, this Court is persuaded to hold that the Department, in the present case, failed to effect valid service of the notices. The statutory requirement of service under Section 169 has not been satisfied.

*29. Section 75(4) of the CGST Act mandates that an opportunity of hearing shall be granted where a request is received in writing or where an adverse decision is contemplated. This provision embodies the principle of audi alteram partem, the right to be heard before an adverse order is passed. The Supreme Court in ***Radha Krishan Industries v. State of Himachal Pradesh, (2021) 6 SCC 771***, while examining the scheme of GST law, underlined that fiscal adjudications must comply strictly with the principles of natural justice, and failure to afford a hearing renders the proceedings vulnerable.”*

7. As the facts are not in dispute, therefore, we are of the opinion that the instant writ petition is squarely covered by the law laid down in the aforesaid judgment of the Allahabad High Court in ***M/s Ahs Steels vs. Commissioner of State Taxes (Writ Tax No.1676 of 2024)*** and the order passed by us dated 12.01.2026 in Writ Petition (M/B) No.1065 of 2025, ***“M/s Jaipal Singh vs. Commissioner, State Goods and Services Tax Commissionerate, Dehradun, Uttarakhand & another”***. The operative part of the order passed in the said case is as follows:-

“Accordingly, the impugned order dated 16.08.2024, passed by respondent No. 2-Assistant Commissioner, State Tax, Sector-1, Vikas Nagar, Dehradun, Uttarakhand is hereby quashed. The Revenue is granted liberty to issue a fresh notice to the petitioner and, thereafter, adjudicate the matter in accordance with law. Needless to say that the petitioner shall be granted an opportunity of personal hearing in terms of Section 75(4) of the GST Act, if so desired by the petitioner.”

8. Having regard to the same, we hereby quash the impugned assessment order dated 23.02.2024 and the consequent citation of recovery dated 23.02.2024.

9. We further provide that the petitioner shall reply to the show-cause notice dated 11.01.2024 within two weeks from today and, thereafter, the respondent-department may pass a fresh order strictly in accordance with law. The petitioner shall also be given opportunity of personal hearing as contemplated under Section 75(4) of the GST Act.

10. The petition stands disposed of.
11. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 23.03.2026
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