

Court No. - 40

Case :- WRIT TAX No. - 354 of 2025

Petitioner :- M/S Ajnara Realtech Limited,

Respondent :- State Of Uttar Pradesh And 3 Others

Counsel for Petitioner :- Suyash Agarwal, Sr. Advocate

Counsel for Respondent :- C.S.C., Gaurav Mahajan

Hon'ble Shekhar B. Saraf, J.

Hon'ble Kshitij Shailendra, J.

1. Heard Sri Suyash Agarwal, learned counsel appearing on behalf of the petitioner and Sri Gaurav Mahajan, learned counsel appearing on behalf of the respondent no.4.

2. This is a writ petition under Article 226 of the Constitution of India wherein the writ petitioner has made the following prayers:-

"(i) Issue a writ of certiorari or any other writ, order or direction quashing the Impugned SCN dated 03.06.2024, issued under Section 74 of the GST Act by the Commissioner State GST, Khand-I, Gautam Budh Nagar respondent no.3, for F.Y. 2017-18, being bad in law, violative of the doctrine of double jeopardy, barred by res judicata, issued without jurisdiction and being contrary to moratorium declared vide NCLT Order dated 15.04.2024. (Annexure-1).

(ia) Issue writ order or direction in the nature of certiorari quashing impugned ex parte order dated 03.02.2025 passed by the respondent no.3 for FY 2017-18 passed u/s 74 of the UPGST Act 2017. (ANNEXURE-16).

(ii) Issue writ, Order or direction in the nature of Prohibition restraining the respondent no.3, from proceeding with the SCN dated 03.06.2024, issued u/s 74 of the GST Act for F.Y. 2017-18.

(iii) Issue a writ, order or direction of similar nature which this Hon'ble Court may deem fit in the facts and circumstances of the present case in the interest of justice, equity and good conscience;

(iv) Award cost of litigation in favour of the Petitioner;"

3. Upon a perusal of the show cause notice, it is clear that ingredients of Section 74 of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the 'Act') have not been adhered to, as there is no allegation of fraud or any willful-misstatement and/or suppression of material facts in the said show cause notice. Subsequent to issuance of said show cause notice, this writ petition has been filed. However, in the meantime, order under Section 74 of the Act has also been passed by the authorities. The order is also bereft of any reasons for issuing the notice Section 74 of the Act and does not comply the ingredients thereof.

4. Learned counsel appearing on behalf of the petitioner has relied on a judgement passed by this Court in **HCL Infotech Ltd. vs. Commissioner, Commercial Tax reported in (2024) 23 Centax 71 (All.)**.

5. In light of the above, the impugned show cause notice dated June 3, 2024 and the order dated February 3, 2025 are quashed and set aside with liberty to the authority concerned to proceed in accordance with law.

6. With the above directions, the writ petition is disposed of.

Order Date :- 18.3.2025

Dev

(Kshitij Shailendra,J.)

(Shekhar B. Saraf,J.)