

Chief Justice's Court

Case :- WRIT TAX No. - 2006 of 2025

Petitioner :- M/s Vrinda Automation

Respondent :- State of Uttar Pradesh and another

Counsel for Petitioner :- Pranjal Shukla, Parth Goswami,
Gauransh Mishra

Counsel for Respondent :- Ankur Agarwal (S.C.)

Hon'ble Arun Bhansali, Chief Justice

Hon'ble Kshitij Shailendra, J.

1. This petition is directed against the order dated 30.12.2024 passed by respondent no. 2 for the period April 2019 to March 2020, whereby a demand to the tune of Rs. 1,34,94,294/- has been raised against the petitioner.

2. The petitioner was issued a show-cause notice dated 25.11.2023 under Section 74 of Goods and Services Tax Act, 2017 (hereinafter referred to as 'the Act') in GST DRC-01. The notice, *inter alia*, called upon the petitioner as to why tax, penalty and interest to the tune of Rs. 66,13,874.78 be not imposed. It is stated that as the said notice was uploaded on the portal under the tab 'Additional Notice and Order' and was never communicated to the petitioner through any other mode, the petitioner being unaware of issuance of such notice, did not/could not file any response to the said show-cause notice, which led to passing of the order dated 30.12.2024 raising the demand as indicated herein-above.

3. Learned counsel for the petitioner made submissions that action of the respondents in raising demand to the tune of Rs. 1,34,94,294/- which includes penalty to the tune of Rs. 45,79,228/- and interest to the tune of Rs. 43,35,838/- is contrary to the show-

cause notice issued to the petitioner and in violation of Section 75(7) of the Act inasmuch the same is beyond the show-cause notice wherein a demand to the tune of Rs. 66,13,874.78 against tax, interest and penalty was sought to be recovered.

4. Learned Standing Counsel opposed the submissions made. Submissions were made that due to mistake less penalty against the statute for IGST was indicated and rate of interest was clearly indicated as such the petition deserves dismissal.

5. We have considered the submissions made by counsel for the parties and have perused the material available on record.

6. Provisions of Section 75(7), inter alia, read as under:

"(7) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice."

7. A perusal of the above would reveal that Section 75 deals with general provisions relating to determination of tax and sub-section (7) specifically stipulates that the amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.

8. Admittedly, in the present case, the show-cause notice merely indicates the amount of Rs. 66,13,874.78 as representing the tax and penalty along with interest @ 18% p.a. and the demand qua the three components has been raised at Rs. 1,34,94,294/-, even if the notice qua interest amount is taken in compliance of the provisions, the amount of penalty and interest thereon is beyond the show cause notice, which is ex facie contrary to the provisions of Section 75(7) of the Act.

9. In view of the above discussion, on account of violation of provisions of Section 75(7) of the Act, the order impugned cannot

be sustained.

10. Consequently, the writ petition is allowed. Order dated 30.12.2024 (Annexure-4) is quashed and set aside and the matter is remanded back to the respondent no. 2, Deputy Commissioner, State Tax, Jurisdiction Ghaziabad Sector-4, Ghaziabad (A), Ghaziabad to provide an opportunity to the petitioner to file response to the show-cause notice and after providing opportunity of hearing, pass a fresh order in accordance with law.

Order Date :- 14.5.2025

P.Sri.

(Kshitij Shailendra, J) (Arun Bhansali, CJ)