

**Chief Justice's Court**

**Case :-** WRIT TAX No. - 606 of 2025

**Petitioner :-** M/s Hari Shanker Transport

**Respondent :-** Commissioner of Commercial Tax U.P. Lucknow and another

**Counsel for Petitioner :-** Adarsh Singh, Alope Kumar, Puneet Arun

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

**Hon'ble Arun Bhansali, Chief Justice**

**Hon'ble Kshitij Shailendra, J.**

1. This petition is directed against orders dated 27.04.2024 and 25.10.2024 passed by the Deputy Commissioner, State Tax, Sector-3, Sonbhadra under Section 73(9) and Section 161 of the Goods and Services Tax Act, 2017 (for short, 'the Act') respectively.

2. Submissions have been made that the petitioner was issued notice under Section 61 of the Act intimating discrepancies in the return after scrutiny on 30.11.2023. The petitioner did not file any reply to said notice being unaware of issuance of the same, as the same was uploaded on the Portal of the Department, resulting in issuance of notice under Section 73 of the Act on 27.01.2024. In the said notice, the reply was to be filed by 27.02.2024 and date of personal hearing was indicated as 20.02.2024. The petitioner did not file reply to the said notice as well, resulting in passing of the order impugned dated 27.04.2024 under Section 73(9) of the Act creating a liability of Rs. 85,84,759/-.

3. The petitioner, as advised, filed rectification application under Section 161 of the Act, however, the said rectification application also came to be rejected by order dated 25.10.2024.

4. Submissions have been made that the order passed under Section 73(9) of the Act, is contrary to the requirement of Section

75(6) of the Act, wherein it is required of the adjudicating officer to set out relevant facts and basis of his decision whereas, the order impugned has been passed without indicating any reason whatsoever and on that count alone the order impugned is bad and deserves to be set aside.

5. Learned counsel for the respondents supported the order impugned. It was submitted that the petitioner was given sufficient opportunity by issuance of notices under Sections 61 and 73 of the Act, however, when it did not avail the same, the passing of the order impugned cannot be faulted.

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

7. A bare look at the order impugned dated 27.04.2024 passed under Section 73(9) of the Act reveals that the same only makes reference to issuance of two notices, the fact that they have not been responded to, and a demand has been raised.

8. The manner of passing of order dated 27.04.2024 falls foul of the requirements of Section 75(6) of the Act, which requires that 'the proper officer, in his order shall set out the relevant facts and the basis of his decision', the statutory requirements for passing an order by setting out relevant facts and basis for the decision are totally missing from the order dated 27.04.2024. Even if no response was filed to the notices issued under Sections 61 and 73 of the Act, it was incumbent on respondent no.2 to pass an order in compliance of the provisions of Section 75(6) of the Act, as a final order should be self contained and merely making reference to the previous notices while passing the said order does not suffice for making it a self contained order.

9. Consequently, the petition is **allowed**. The order dated 27.04.2024 (Annexure-6 to the writ petition) is quashed and set aside. The matter is remanded back to respondent no.2/Deputy Commissioner, State Tax, Sector-3, Sonbhadra to provide an opportunity of filing response to the show cause notice issued under Section 73 of the Act to the petitioner, which response shall be filed within a period of four weeks from today and thereafter, after providing opportunity of hearing, a fresh order in accordance with law be passed.

**Order Date :- 11.3.2025**

AHA

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