

Chief Justice's Court

Case :- WRIT TAX No. - 2249 of 2025

Petitioner :- M/s Shakil Ahmad Security Agency

Respondent :- Deputy Commissioner State GST Ghaziabad and 2 others

Counsel for Petitioner :- Harsh Vardhan Gupta

Counsel for Respondent :- C.S.C.

Hon'ble Arun Bhansali,Chief Justice

Hon'ble Kshitij Shailendra,J.

1. This writ petition is directed against the demand order dated 27.04.2024 issued by the Deputy Commissioner, Ghaziabad, Sector-11, Ghaziabad U.P. under Section 73 of the Goods and Services Tax Act, 2017.

2. Learned counsel with reference to judgment in **M/s Hari Shanker Transport Vs. Commissioner of Commercial Tax U.P.**: Writ Tax No.606 of 2025, decided on 11.03.2025, made submissions that the order impugned does not fulfill the requirement of Section 75(6) of the Act and, therefore, the order impugned deserves to be quashed and set aside and the matter be remanded back.

3. Learned counsel appearing for the respondents attempted to support the order impugned, however, does not dispute that the issue as raised is covered by the judgment in the case of **M/s Hari Shanker Transport (supra)**.

4. In the case of **M/s Hari Shanker Transport (supra)**, this Court, after hearing the parties, came to the following conclusion:-

"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."*

5. Admittedly, in the present case, demand order dated 27.04.2024 also does not contain any reason and only the indication made in the show cause notice has been incorporated by reference and, therefore, the said order cannot be sustained.

6. Consequently, the writ petition is **allowed**.

7. The demand order dated 27.04.2024 (Annexure-5 to the writ petition) is quashed and set aside. The matter is remanded back to respondent no.1, who shall 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 :- 15.5.2025

Sandeep/Sazia

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