



2025:AHC:188544-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 5151 of 2025

M/S Agarwal Aromas Private Limited

.....Petitioner(s)

Versus

Union Of India And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Sumeet Mishra, Suyash Agarwal
Counsel for Respondent(s)	: A.S.G.I., C.S.C., Dhananjay Awasthi, Gopal Verma

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE INDRAJEET SHUKLA, J.

1. Heard Sri Sumeet Mishra learned counsel for the petitioner, Sri Gopal Verma learned counsel for GSTN and Sri Arvind Kumar Mishra learned counsel for the revenue.

2. Present petition has been filed for the following relief:

"Issue a writ, order, or direction in the nature of mandamus directing the competent Respondent to remove the lacuna in filing appeal online on the portal and accept the Petitioner's statutory appeal under section 107 of the UPGST Act against the order dated 30.05.2025 passed under Section 74, UPGST Act by the respondent no. 3. (Annexure- 1)."

3. Primarily, the grievance of the petitioner is that its right to file statutory appeal against the order dated 30.05.2025 passed under Section 74 of the UPGST Act, 2017, cannot be eclipsed or denied for reason of the disputed amount of tax deposited by the petitioner, prior to the impugned order being passed. Earlier, the petitioner was issued Show Cause Notice proposing to confirm demand of tax Rs. 1,99,260/- together with interest and penalty Rs. 1,88,301/- and Rs. 49,815/-, respectively.

4. Only to limit the dispute arising from the issuance of the Show Cause Notice dated 25.02.2025, the petitioner had been advised and it made the necessary deposit. However, it had objected to the proposed demand of tax, interest and penalty. Merely, because the Adjudicating Authority may have

passed an order assuming that there was no surviving dispute, it may not deprive the petitioner its right to appeal against the order dated 30.05.2025.

5. At present, the disability to file appeal against the order dated 30.05.2025 has arisen because the Online Portal established, run and managed by GSTN (respondent No. 1) is not enabling the petitioner to file such appeal. All attempts to file appeal through online mode failed because against the column 'Disputed Demand of Tax', the Online Portal is retrieving the information from the impugned order and reflecting the same as 'Nil'. Therefore, the attempts being made by the petitioner to file the appeal have failed.

6. On 14.10.2025, on brief hearing, we passed the following order:

"1. Difficulty is being faced by the petitioner in filing statutory appeal against the order dated 30.05.2025. Grievance of the petitioner is, for reason of disputed tax having paid and response to the show cause notice, the feature of the common portal designed for filing appeals has been automatically disabled. At present, on efforts being made by the petitioner to file an appeal, the portal is responding by displaying the words - "disputed amount cannot be zero".

2. Shri Gopal Verma, learned counsel for GSTN has obtained telephonic instructions. He prays for short accommodation.

3. Another common difficulty that has come to our notice through numerous petitions wherever date for filing of reply and date of personal hearing are being communicated to the assessee in response to the adjudication notices and other notices, the proper officers/adjudicating authorities operating the portal are inadvertently filling up the date of hearing prior to the date of filing reply. Fixing of such dates vide statutory notices creates incurable defect to the proceedings.

4. On a prima facie basis, we may observe, in computer applications, it is easily possible to build logic as may prevent fixing date of hearing prior to the date of filing reply. It may be noted, in no case (without exception) any possibility may ever exist where the date for personal hearing may be fixed before the date for filing of reply.

5. Accordingly, we further observe, the said issue is easily resolvable by providing an appropriate modification as may ensure that such

inadvertent error is never caused by any officer operating the portal inasmuch as once he fills up the date for filing the reply, the next tab requiring the date for personal hearing may never be allowed to be fixed up to the date of filing reply. Since the law necessarily requires that the date of filing reply and date of personal hearing may not be the same and there may be minimal gap between the two dates, such a measure is necessary. 6. Put up as fresh on 28.10.2025 to enable Shri Gopal Verma to obtain written instructions with respect to both issues noted above. If resolution of either of the two disputes is not possible to be made, written instructions would fully disclose the technical and other reasons."

7. Today, Sri Gopal Verma learned counsel for respondent No. 1 has supplied a copy of the written instructions received by him from the Vice President-Legal & FAA Goods and Services Tax Network. The same has been marked as 'X' and retained on record. Insofar as the second issue flagged in our last order - with respect to date of hearing being fixed before the date of filing of reply, the instructions are specific. They read as below:

"Further, with respect to the direction passed by the Hon'ble High Court vide order dated 14th October 2025 (para No. 4&5) thereby directing GSTN to allow the officer to schedule the date of personal hearing only after the date of filing of reply. In this regard, it is stated that GSTN has technically examined the feasibility of introducing such modification/validation across the Adjudication and other notices Modules, and the same will be deployed on priority to enable the proper officers/adjudicating authorities avoiding filling up the date of hearing prior to the date of filing reply."

8. We appreciate the prompt response of respondent No. 1 in recognising the issue flagged by us and in assuring to offer remedial measures expeditiously. In view of that resolution offered, no further direction is required to be issued on that count, at present. Sri Gopal Verma assures the Court that necessary correction would be made soon.

9. On the first aspect, the written instructions read as below:

"Given the above, it is respectfully submitted that the issue raised in the instant writ petition pertaining to the filing of an 'Appeal' does not relate

to any technical or portal-related constraint, but rather to a procedural aspect. Accordingly, the concerned jurisdictional tax authority/tax officer to be contacted to create/rectify the demand in the system, to enable the taxpayer/petitioner to file the 'Appeal' on the GST portal in accordance with law."

10. Submissions have also been advanced by Sri Gopal Verma to similar effect. We have considered the same.

11. At present, we are unable to accept the correctness of the stand taken by the GSTN. Though technically the GSTN authorities may feel inclined to observe that there is no error in the Online Portal - in not permitting the petitioner to file such appeal and the error if any, may be on part of the jurisdictional authority, that view of the GSTN authorities may not find our acceptance for the reason-appeal is a creature of statute, as held in **Hoosein Kasam Dada (India) Limited Vs. State of Madhya Pradesh and Others, (1953) 1 SCC 299**. Once, the statute has given a person aggrieved (here the petitioner), a right to appeal against an order, that right may not be denied or obstructed on technicalities or rules of procedure.

12. Procedure is handmaid of justice as held in **State of Punjab and Another Vs. Shamlal Murari and Another, (1976) 1 SCC 719**. Earlier, when appeals were filed through physical mode, the dealing officials did not have liberty or discretion to not register an appeal presented for filing before an Appeal Authority. Whether an appeal may or may not lie and if such appeal may be entertained may remain matters falling in the realm of quasi-judicial power to be exercised by the Appeal Authority. The procedure of filing an appeal may not be employed to overreach the exercise of quasi-judicial power of the appeal authority. To that extent, the dealing officials remained duty bound to accept, register and send the record of the appeal to the quasi-judicial authority/Appeal Authority, competent to deal with the same.

13. With the introduction of technology and in view of Online mode being the prescribed mode for filing all appeals under the GST regime, the only change we recognise and accommodate is the replacement of the

officials i.e. human agents dealing with filing/reporting of appeals with machine run, software driven technology. No other change has been made to the substantive law as may allow a larger discretion to be exercised under the procedural law as may eclipse or obstruct the statutory right of appeal, that vests in the petitioner - to file an appeal against the Adjudication Order dated 30.05.2025.

14. Therefore, on the second issue, the GSTN authorities may make appropriate change in the program/software to enable filing of appeals even if according to the digital records, the disputed tax liability may reflect as 'Nil'. It may remain permissible to the GSTN authorities to accept and register such appeals with a note that there is no disputed tax liability reflected from the digital record and therefore the issue of maintainability of the appeal may be examined by the quasi-judicial authority i.e. the Appeal Authority.

15. This direction and the refinement proposed by GSTN (see para 7), may be carried out by the GSTN within a period of one month from today.

16. Since filing of the appeal cannot be held hostage to the correction that is necessary to be made by the GSTN, in its technical processes, in the interest of justice, we provide - in the present case the petitioner may file his appeal through physical mode before the appropriate Appeal Authority, within a period of two weeks from today.

17. Subject to such appeal being filed, the same may be registered, dealt with and decided on its own merits without raising any objection as to limitation or for reason of such appeal being filed through physical mode. The appeal itself may be heard and decided expeditiously.

18. With the above directions, present writ petition is **disposed of**.

19. Let a copy of this order be communicated to respondent No. 1 by Sri Gopal Verma within three days.

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

October 28, 2025

Faraz