2025:AHC:194307

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 1357 of 2022

M/S Singhal Iron Traders

.....Petitioner(s)

Versus

Additional Commissioner And Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Suyash Agarwal, Sr. Advocate
Counsel for Respondent(s)	:	C.S.C.

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard learned counsel for the petitioner and learned A.C.S.C. for the State-respondents.

2. By means of instant writ petition, the petitioner has assailed the order dated 23.06.2022 passed by the Additional Commissioner Grade-2 (Appeal)-I, State Tax, Agra/respondent no.1 and the order dated 30.09.2021 passed by the Assistant Commissioner State Tax, Sector-4 Agra/respondent no.2 for the period August 2018 passed under Section 74 of the GST Act, 2017.

3. Learned counsel for the petitioner submits that the petitioner is a proprietorship firm which is engaged in the trading and supply businesses of all kinds of Iron Scrap etc. During the Assessment Year 2018-19, the petitioner purchased Iron Scrap in the month of August 2018 from the registered dealer namely M/s Arvind Metal Suppliers, Nunhai, Agra, against two tax invoices and two e-way bills for Rs.10,83,600/-, including CGST and SGST of Rs.1,95,048/-, the said payment was made to the supplier through banking channels.

4. He further submits that the supplier/seller also filed his GSTR-01 and GSTR-3B for the period of August, 2018 within time on the GST Portal. However, GSTR-3B can only be filed after making payment of due tax by the supplier.

5. He further submits that the proceedings against the petitioner were initiated under Section 74 of the GST Act, 2017 and a notice was issued to the petitioner on 27.3.2021 to show cause as to why RITC and penalty

may not be imposed as the registration of the supplier was cancelled on 31.1.2019 and no business activity was undertaken to which the petitioner filed his detailed reply, annexing all the documentary evidence, stating therein that the petitioner had validly claimed the ITC, but without considering the same, respondent no.2 passed the order in GST DRC-07 and made RITC of Rs. 1,95,048/- and imposed penalty of Rs.1,95,048/-, whereby an inference was also drawn against the petitioner that the ITC claimed by the selling dealer may be reversed. Being aggrieved to the said order, an appeal was filed by the petitioner, which was also dismissed without considering the material available on record, confirming the proceedings initiated under Section 74 of the GST Act against the petitioner.

6. Counsel for the petitioner further submits that the petitioner purchased the goods and at the time of transactions for the same, the selling dealer was a registered dealer, but thereafter, on the application moved by the selling dealer, the registration was cancelled and therefore, no inference against the petitioner can be drawn if the selling dealer was found non-existing at the subsequent stage of survey.

7. He further submits that the supplier filed his return and deposited the tax in form GSTR-3B and GSTR-01. He further submits that no fraud or misrepresentation was made by the petitioner.

8. He further submits that merely on the information received that the supplier was found non-existing, the authority ought to have verified the same at its own level before using the same against the petitioner.

9. Per contra, learned A.C.S.C. supports the impugned order and submits that the supplier of goods, which were made to the petitioner, was found non-existing, and therefore, the seven purchases shown by the petitioner are unregistered and as such, the proceedings were rightly been initiated against the petitioner.

10. After hearing the parties, the Court has perused the record.

11. It is not in dispute that the petitioner is a registered dealer having GST Registration No.ZD090421000805R for the purchase of Iron Scrap etc. For the period of August, 2018, two purchases were made by the petitioner to which due e-way bills were generated and the payments were

shown to be made through banking channels. However, thereafter, the proceedings under Section 74 of the GST Act were initiated against the petitioner on the ground that the registration of the supplier was cancelled subsequent to the transactions in questions while the purchases were disclosed from a non-existing dealer.

12. It is also not in dispute that the supplier filed its return in the forms of GSTR-01 and GSTR-3B. Moreover, it is also not in dispute that without making payment of due taxes, GSTR-3B cannot be generated. Once the tax was paid by the petitioner in the forms of GSTR-01 and GSTR-3B, no adverse inference can be drawn against the petitioner on the premise that the registration of the dealer from whom the purchases were shown to be made, was cancelled subsequently.

13. It was the duty of the authorities to verify the said information as to whether at the time of transactions, the firm was in existence or not, and therefore, without verifying the same, the authorities ought not to have initiated the proceedings against the petitioner only on the borrowed information as the petitioner discharged its preliminary duty by making the payment of due taxes through banking channels.

14. Further, it is not the case of the revenue that the vehicle used for transportation was not found registered and therefore, the initiation of proceedings against the petitioner cannot be said to be justified and are liable to be quashed by this Court.

15. In view of the above facts as stated, the impugned orders cannot be sustained in the eyes of law and the same are hereby quashed.

16. Accordingly, the writ petition is **allowed**.

(Piyush Agrawal,J.)

November 4, 2025
Rahul Dwivedi/-