



2025:AHC-LKO:61265-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT TAX No. - 1031 of 2025

M/S R.T.S. Electricals And Civil India Pvt. Ltd.
Thru. Director Mrs. Arti Singh And Another

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. (Institutional
Finance) Lko. And Another

.....Respondent(s)

Counsel for Petitioner(s)	: Prem Chandra Chauhan, Arvind Kumar
Counsel for Respondent(s)	: C.S.C.

Court No. - 16

**HON'BLE SHEKHAR B. SARAF, J.
HON'BLE PRASHANT KUMAR, J.**

1. This petition is directed against the order dated 09.04.2024 passed by respondent no.2 for the period April, 2018 to March 2019, whereby a demand to the tune of Rs.3,04,55,800/- has been raised against the petitioner.
2. The petitioner was issued a show-cause notice dated 26.09.2023 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.2,10,04,200/- be not imposed. Thereafter the order dated 09.04.2024 raising the demand as indicated herein-above has been passed.
3. Learned counsel for the petitioner made submissions that action of the respondents in raising demand to the tune of Rs.3,04,55,800/- which includes penalty to the tune of Rs.1,05,02,000/- and interest to the tune of Rs.94,51,800/- 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.2,10,04,200/- against tax, interest and penalty was sought to be recovered.
4. Learned Standing Counsel opposed the submissions made. Submissions were made that charging interest and penalty is statutory and, therefore, irrespective of the fact that the same has not been indicated in the show-cause notice, would not take away the power of the authority in demanding the interest and penalty in accordance with law and on that count, 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.2,10,04,200/- as representing the tax, interest and penalty and the demand qua the three components has been raised at Rs.3,04,55,800/-, 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 09.04.2024 is quashed and set aside and the matter is remanded back to the respondent no. 2 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.

(Prashant Kumar,J.) (Shekhar B. Saraf,J.)

October 6, 2025

Anupam S/-