



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Writ Petition (M/B) No.991 of 2025

25th November, 2025

Atlanta Tele Cables

---Petitioner

Versus

The Deputy Commissioner State Goods and Services Tax

---Respondent

Presence:-

Mr. Nitesh Jain, learned counsel for the petitioner through V.C.

Ms. Puja Banga, learned Brief Holder for the State through V.C.

JUDGMENT: (per Sri G. Narendar, C.J.)

Heard Mr. Nitesh Jain, learned counsel for the petitioner and Ms. Puja Banga, the learned Brief Holder for the State.

2. The short facts involved in the matter is that the petitioner was issued a show cause notice and pursuant to his reply to the show cause, the petitioner further sought for personal hearing. The personal hearing was fixed on 28.07.2025 and that the petitioner intimated the respondent that he was travelling out of the country.



3. In fact, the petitioner's counsel has produced the original passport and it is seen that the petitioner has exited the country on 20.07.2025 and returned back on 31.07.2025 and that the respondent authority failed to grant any adjournment; that in terms of the provisions of Section 75 of the Central Goods and Services Tax Act, 2017 (for short "CGST Act"), the petitioner is eligible to seek a maximum three adjournments; that, the petitioner had sought one adjournment but the authority, ignoring the same and without considering the application for adjournment, has proceeded to pass orders and the orders are adverse to the interest of the petitioner. The issue in this regard is no more *res integra* and Coordinate Bench of this Court has interpreted the provisions of Section 75, more particularly, Sub-section (4) and (5) of the Act of 2017 in WPMB No.123 of 2025.

The order reads as under: -

"2) The case in a nutshell is that the petitioner was visited with a showcause notice dated 18.06.2024 issued by the 2nd respondent in form GST ASMT-10 seeking the details and explanation pertaining to the difference in the value of outward supplies declared in GSTR 1 and value of the E-way Bills raised in the financial year 2020-2021.

3) That the petitioner effected a reply to the show-cause notice dated 18.06.2024 by its reply dated 17.07.2024; that on 28.11.2024, the 2nd respondent issued form DRC – 01 (SCN) to show-cause that why a demand of Rs. 71,57,938/- shall



not be confirmed with interest for difference in value of outward supplies declared in GST R-1 and the value of E-way Bills raised during the relevant period. Further, under the said notice, the respondents scheduled a personal hearing on 20.12.2024 and mentioned the last date for submission of reply as 28.12.2024. The petitioner sought for adjournment of the date of personal hearing to a date after the submission of their reply. The request for adjournment was premised on the basis of the petitioner attempting to collate information pertaining to 2021.

4) In our opinion, the approach of the Revenue Authority in fixing the personal hearing date before the last date for submission of reply is akin to putting the cart before the horse. The submissions to be made during the personal hearing would necessarily be on the basis of the reply effected. The approach of the Authorities on insistence of having a personal hearing prior to submitting a reply is contrary to the scheme of the Act also.

5) A conjunctive reading of Section 73, 74 and 75 makes it apparent that the approach adopted by the Authority is contrary to the scheme of the Act. Sub-Section 4 and 5 of Section 75 of the Act reads as under: -

"75.(4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

(5) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted for more than three times to a person during the proceedings."

6) The scheme of the Act enables the assessee to seek for adjournment not in excess of three times and it is pertinent to note that sub-section 5 succeeds sub-section 4, which enables the assessee to seek for a personal hearing. Section 75 relates to the procedural aspect that is required to be followed by the Authorities in the matter of



determination of assessment, more particularly, of tax that has escaped assessment.

7) If the statute stipulates a matter to be performed in a particular manner, the same shall be performed in that manner only. Law in this regard is no more *res integra* and is well-settled by catena of judgments of the Apex Court.

8) In the case on hand, the order does not disclose any justifiable reasons for rejecting the application for request for adjournment and that apart, as noted above, the approach itself appears to be incorrect and contrary to the scheme of Section 75, more particularly, sub-section 4 and 5 of Section 75.

9) In that view of the matter, the order of assessment is set-aside. The matter is remitted back to the competent authority to proceed from the stage of the 28.11.2024 notice."

4. In view of the above position, the order impugned, being contrary to the law laid down by this Court, is partially set aside. The matter is remitted back to the authority to recommence from the stage of personal hearing.

5. Learned counsel for the petitioner would submit that the petitioner would appear for personal hearing on 04.12.2025 at 11:00 a.m. The sole respondent may either proceed to hear the petitioner on the said date or shall assign any other date. The petitioner shall appear on any other date that may be requested by the petitioner and the petitioner shall positively conclude the personal hearing on the said date. Thereafter, the



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respondent is entitled to pass orders, in accordance with law.

6. Writ Petition stands ordered, accordingly.

There shall be no order as to costs.

(G. NARENDAR, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 25.11.2025
KK/SS

