



2025:AHC:218801-DB

## **HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT TAX No. - 7200 of 2025**

Pilcon Infrastructure Pvt. Ltd.

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

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Counsel for Petitioner(s) : Adarsh Singh, Aloke Kumar, Puneet Arun

Counsel for Respondent(s) : C.S.C.

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### **Court No. - 3**

**HON'BLE SAUMITRA DAYAL SINGH, J.**

**HON'BLE VIVEK SARAN, J.**

1. Heard Sri Aloke Kumar alongwith Sri Adarsh Singh learned counsel for the petitioner and Sri Arvind Kumar Mishra learned Standing Counsel for the State.
2. Challenge has been raised to notice dated 17.10.2025 issued to the petitioner under Section 74 of the U.P. G.S.T. Act, 2017.
3. Submission is that there is no element of fraud or willful mis-statement or suppression of facts alleged against the present petitioner. Even the supplier firm M/s Maa Kamakhya Trading registered in the State of Chhattisgarh was a genuine entity. It had issued regular Tax Invoice and e-way bills, made supplies to the petitioner against due payment through banking channel.
4. Merely because some information has been received from the Director General of GST Intelligence (DGGI), it has been hurriedly inferred that the petitioner had fraudulently availed ITC.
5. Earlier, on the self-same allegation, petitioner's ITC had been blocked. It had approached this Court by means of Writ Tax No. 4654 of 2025. It has been allowed vide order dated 29.10.2025. Though leave was granted to the respondent to initiate fresh proceedings to block the ITC, without adopting that legal course available, the petitioner has been visited with the impugned Show Cause Notice.

6. On the other hand, learned Standing Counsel would submit, dispute is factual in nature. While the order of blocking ITC was set aside by this Court, insofar as present Show Cause Notice is concerned, it may remain unaffected by the earlier pronouncement of this Court. Referring to the contents of the Show Cause Notice, it has been asserted, at present material facts have been noticed in the Show Cause Notice as may indicate that it does appear to the Adjudicating Officer that ITC may have been claimed fraudulently or by suppressing material facts or by making willful mis-statement. The issue is to be dealt with and decided by the Adjudicating Authority after considering evidence that may be placed before it.

7. To the extent, the exercise to be made by the Adjudicating Authority is factual, no interference may be warranted at this preliminary stage.

8. Having heard learned counsel for parties and having perused the record, while notice under Section 74 may be issued only in face of existence of jurisdictional facts, involving amongst others, availment/utilisation of ITC by reason of fraud or willful mis-statement or suppression of facts, at the stage of notice, the Adjudicating Authority is only to apply its mind to the facts brought before it and form a subjective opinion. If it appears to the Adjudicating Authority that jurisdictional fact exists, it may issue the notice.

9. In the present facts, the Adjudicating Authority has applied its mind to the information brought before it by the DGGI indicating not only four transactions performed by the petitioner with M/s Maa Kamakhaya Trading but also that such invoices were bogus. Whether that *prima facie* satisfaction drawn wholly *ex parte* is correct or not, is not to be tested at this stage. To the extent the satisfaction recorded, at this stage, is based on material before the Adjudicating Authority, the writ Court may not examine the issue any further.

10. Thus, without making any observation as to the final sustainability of the *prima facie* satisfaction drawn by the Adjudicating Authority as to element of fraud/mis-statement/suppression and leaving it open to the petitioner to lead all evidence to establish genuineness of its transaction

and further leaving it open to the petitioner to rebut all evidence that may be relied against it, we leave that issue open.

11. Only to the extent of examining if jurisdiction has been validly assumed, we are not inclined to offer interference at this stage, in the facts noted above. However, it is made clear, before the Adjudicating Authority proceeds before proceeding with the Show Cause Notice, it must confront the petitioner with all adverse material including Relied Upon Documents (RUDs), statements etc. that may have been recorded behind its back and that may be relied during the adjudication proceedings. That compliance may necessarily be made within a period of two weeks from today. Thereafter the petitioner may furnish its written reply within a further period of four weeks. Appropriate reasoned order may be passed in the adjudication proceedings thereafter dealing with all objections that may be raised and pressed by the petitioner, including as to assumption of jurisdiction.

12. Writ petition is accordingly **disposed of**.

**(Vivek Saran,J.) (Saumitra Dayal Singh,J.)**

**December 5, 2025**

Faraz

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