



2026:UHC:1961-DB

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**  
**THE HON'BLE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA**  
**AND**  
**THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY**  
**Writ Petition (M/B) No.130 of 2026**  
**March 20, 2026**

Bajaj Auto Limited -----Petitioner

**Versus**

Commissioner of Uttarakhand,  
State Goods and Services Tax,  
Uttarakhand & Ors. -----Respondents

**Presence:-**

Mr. Makarand Joshi and Mr. Suryakant Maithani, learned counsel for the petitioner  
Ms. Puja Banga, learned Brief Holder for the State/respondents through V.C.

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**JUDGMENT : (per Mr. Manoj Kumar Gupta C. J.)**

1. Heard learned counsel for the parties.
2. The petitioner has assailed an adjudication order dated 01.12.2025 passed by respondent no.3 u/s 73(9) of the Uttarakhand Goods and Services Tax Act, 2017/Central Goods and Services Tax Act read with Rule 122, whereby a demand of differential amount of tax @ 10% has been raised in respect of spare parts manufactured by the petitioner company during the financial year 2021-22. The order preceded an audit u/s 65 of the CGST Act and, based on the audit report, a show cause notice was issued to the petitioner on 26.09.2025. The petitioner replied to the same on



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04.11.2025 and after providing personal hearing to the petitioner, the impugned adjudication order has been passed.

3. The main contention of learned counsel for the petitioner is that the reply of the petitioner has not been properly considered by the Adjudicating Officer and consequently the matter should be remitted back to the Adjudicating Authority.

4. In support of the submission, learned counsel for the petitioner has placed reliance on judgments of Hon'ble Supreme Court as well as judgments of various High Courts, which are as under:-

- (i) Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai & Ors., (1998) 8 Supreme Court Cases 1
- (ii) Avandtha Holdings Ltd. Vs. Proper Officer, GST, New Delhi, (2024) 21 Centax 447 (Del.)
- (iii) OLA Fleet Technologies Pvt. Ltd. Vs. Union of India, (2025) 26 Centax 66 (Telangana)
- (iv) Holy Land Marketing Pvt. Ltd. Vs. Sales Tax Officer, Avato Ward, Delhi, (2025) 26 Centax 131 (Del.)
- (v) Indian Highways Management Company Ltd. Vs. Assistant Commissioner Delhi Department of Trade & Taxes, (2025) 26 Centax 359 (Del.)



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- (vi) Rays Power Infrastructure Pvt. Ltd. Vs. Assistant Commissioner of Commercial Taxes, (2024) 25 Centax 107 (Kar.)
- (vii) Ideal Datacom Network and Electrical Solutions Pvt. Ltd. Vs. State Tax Officer, Cochin, (2024) 25 Centax 156 (Ker.)

5. We have gone through the impugned order and we find that the Adjudicating Authority has specifically examined the issue as under which HSN Code, the spare parts meant only for a particular model being manufactured by the petitioner company would fall and has thereafter returned a specific finding that it should have been categorized under HSN code 8714 (Parts and Accessories of Vehicles of Headings 8711 to 8713) and consequently the tax was payable @ 28%, whereas it has been paid @ 18% only. Accordingly, the difference in tax amount has been demanded from the petitioner.

6. It is not disputed that against the impugned adjudication order the petitioner has remedy of filing appeal under Section 107 of the Act.

7. Learned counsel for the petitioner submits that, in case the petitioner avails the said remedy, it shall have to make pre-deposits, therefore, the petition be entertained.



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8. The requirement under law of making pre-deposit to avail the remedy of appeal cannot itself be a ground to permit the petitioner to bypass the statutory remedy.

9. The additional submission by learned counsel for the petitioner that in similar facts there is order in favour of the petitioner by the Adjudicating Authority of the State of Maharashtra can be pressed before the appellate authority, in case appeal is filed.

10. For the aforesaid reasons, we decline to examine the impugned order on merits and dispose of the writ petition with liberty to the petitioner to avail the statutory remedy, if so advised. In that event, no observation made herein, would come in the way of the petitioner and all pleas and contentions shall be considered and decided on merits.

**(MANOJ KUMAR GUPTA, C. J.)**

**(SUBHASH UPADHYAY, J.)**

Dated: 20.03.2026

Rajni

**RAJINI  
GUSAIN**

Digitally signed by RAJINI GUSAIN  
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