HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

WRIT TAX No. - 1670 of 2025

M/S Jai Mahalaxmi Traders Thru. Proprietor Ravikant Mishra

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Tax And Registration And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Santosh Srivastava
Counsel for Respondent(s)	:	C.S.C.

Court No. - 8

HON'BLE MANISH KUMAR, J.

1. Heard learned counsel for the petitioner and Sri Sanjay Sarin learned Additional Chief Standing counsel by the respondent.

2. By means of the instant petition, the petitioner is challenging the order dated 20.08.2024 passed by the respondent No.4, whereby a demand of Rs. 74,396.06/- has been raised on the petitioner. The same was challenged in an appeal before the respondent no.3 and the appeal is also dismissed by means of the order dated 10.10.2025.

3. Primarily submission of the learned counsel for the petitioner is that a show cause notice dated 30.04.2024. was issued to the petitioner alleging 'Short Tax Paid / Excess ITC Claimed' for the Financial Year 2019-20.

4. It is further submitted that the notice records that the petitioner "has neither filed reply in the given date nor has attended the personal hearing". Thereafter, the respondent issued multiple reminder notices.

5. It is further submitted that the order impugned is in violation of Section 75(4) (5) of the Act.

6. It is further submitted that the aforesaid orders are liable to be set aside on the sole ground having been passed after a gap of almost about one month whereas the Division Bench of this Court passed in Writ Tax No.303 of 2024 [Mahaveer Trading Company vs. Deputy Commissioner, State Tax and Anr; 2024:AHC:38820-DB] has held that the date of passing of the order must be commensurate with the date of personal hearing is in gap between two, raises presumption that the authority has not considered the submissions at the time of hearing.

7. It is further submitted that this aspect has also been taken note by another Division Bench of this Court in M/s Shubham Steel Traders vs State of U.P. vs

Another; 2024:AHC:31108-DB.

8. Shri Sarin learned Additional for the State respondent has refuted the aforesaid submissions, however, could not dispute the fact that the impugned order dated 20.08.2024 was passed after almost about one month of the personal hearing. The dictum of this Court in Mahaveer Trading Company (supra) and M/s Shubham Steel Traders (supra) clearly attracted.

9. This Court for the benefit extracts the relevant portion of the Division Bench decision in M/s Shubham Steel Traders (supra) which reads as under:

"6. Whatever be the correct fact as to the status of proceedings conducted on 06.11.2023, the order does not make any mention of the same. It is equally true that the assessing authority did not pass any order on the date fixed i.e. 06.11.2023. Instead he has chosen to pass the order on 20.11.2023, 14 days thereafter. Neither the impugned order nor the instructions of the learned Standing Counsel indicate that any date was fixed for 20.11.2023. Without fixing any further date and without giving petitioner any further opportunity the impugned order has been passed.

7. In such facts, learned counsel for the petitioner submits that the impugned order is really ex-parte. It has been passed in great haste in as much as only five days' time was allowed to the petitioner under notice dated 31.10.2023 to produce the supporting documents. Without rejecting the petitioner's request for time, the respondent authority chose not to pass the final order on that date. He also did not communicate the fresh date in the proceedings.

8. Thus relying on Coordinate Bench decision of this Court in M/S Videocon D2H Limited and Ors. Vs. State of U.P. and 3 Ors (2016) 93 UPTC 237, M/S Aroma Chemicals Vs. Union of India & Ors Neutral Citation No.-2014:AHC:60699-DB, it has been submitted, such an order may not stand.

9. While learned Standing Counsel has submitted that petitioner has the remedy of appeal and that the petitioner is itself to blame in as much he did not comply with the notice dated 31.10.2023, we are not impressed by the objection being raised.

10. Rules of natural justice ensure fairness in proceedings. Once the authority had fixed the matter for hearing on 06.11.2023 it was incumbent on that authority either to pass the order or to fix another date and communicate the same to the petitioner. Communication of the other date was necessary as according to the assessing authority the petitioner failed to appear before it on the date fixed on 06.11.2023.

11. By not passing the order on 06.11.2023 and not communicating the next date fixed in the proceedings, the assessing authority forced the ex-parte nature of the order on the petitioner, by its own conduct.

12. In absence of any provision under the Act to allow for ex-parte proceedings to arise in such facts, we find that the breach of natural justice pressed by the petitioner is real."

10. Since the aforesaid dictum is applicable in the present facts and circumstances, accordingly, the impugned orders cannot be sustained and the

orders dated 20.08.2024 & 10.10.2025 are accordingly quashed.

11. With the aforesaid, the present petition is **allowed.**

12. Matter is remanded to the assessing authority to pass fresh order after giving an opportunity of hearing to the petitioner.

December 19, 2025
Nitesh

(Manish Kumar,J.)

Digitally signed by :-
NITESH KUMAR TEWARY
High Court of Judicature at Allahabad,
Lucknow Bench