HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA

AND

HON'BLE SRI JUSTICE SUBHASH UPADHYAY

20TH AUGUST, 2026

WRIT PETITION (M/S) NO. 3306 OF 2024

M/s Sudama Hardware .....Petitioner.

Versus

State of Uttarakhand & another ....Respondents.

Counsel for the Petitioner	:	Ms. Sukhwani Singh, learned counsel.
Counsel for the State	:	Ms. Puja Banga, learned Standing Counsel.

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

1. Heard learned counsel for the parties.

2. The petitioner firm has assailed the order dated 18.12.2023, passed by respondent no.2 under Section 73 of the Uttarakhand Goods and Services Tax Act for having wrongly availed the Input Tax Credit.

3. Apart from various contentions on merits, it is submitted that the impugned order stands vitiated as the show-cause notice, which was issued to the petitioner firm on 18.12.2023, indicated date for personal hearing to be 29.12.2023, whereas reply was to be submitted up to 17.01.2024. Thus, the contention is that the hearing sought to be given to the petitioner firm was illusory inasmuch as the date fixed for hearing preceded the date

for submission of reply.

4. The show-cause notice dated 18.12.2023 has been brought on record by means of supplementary affidavit and according to the same, the reply was to be submitted by 17.01.2024 whereas the date of hearing was shown as 29.12.2023 at 12:10 PM.

5. Fixing a date for personal hearing before the date fixed for submitting reply is like putting the cart before the horse and amounts to clear violation of the principles of natural justice as well as the procedure laid down under the law. Resultantly, the order of assessment under Section 73 of the Act cannot be sustained and is, hereby, quashed.

6. Accordingly, the writ petition is allowed. It is left open to the Revenue to proceed from the stage of show-cause notice after providing proper opportunity to the petitioner firm to file its reply and, thereafter, affording opportunity of hearing to the petitioner firm.

7. At this stage, Ms. Puja Banga, learned Standing Counsel for the Revenue submits that the petitioner firm be granted a specified time for submitting its reply and the Department would take decision on merits within such time as may be directed by this Court.

8. Having regard to the said submission, we, hereby, provide that the petitioner firm shall submit its reply within two weeks and the Department will fix a date for personal hearing and decide the matter expeditiously.

9. Pending application, if any, also stands disposed of.

MANOJ KUMAR GUPTA, C.J.

SUBHASH UPADHYAY, J.

Dated: 20th August, 2026
NISHANT

NISHANT KUMAR