

Court No. - 7

Case :- WRIT TAX No. - 356 of 2024

Petitioner :- M/S Deepak Enterprises Bulaki Adda Lko. Thru. Proprietor Deepak Kumar Gupta

Respondent :- State Of U.P. Thru. Prin. Secy. Tax And Registration Lko. And 3 Others

Counsel for Petitioner :- Anil Kumar Singh, Prateek Yadav, Utkarsh Misra

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the parties and perused the record.
2. The present petition has been filed by the petitioner challenging the order dated 20.04.2024 passed under Section 73 of the GST Act as well as the order dated 03.12.2024 whereby the appeal preferred by the petitioner was dismissed as being beyond limitation.
3. Attacking the order dated 20.04.2024, the submission of the counsel for the petitioner is that the same was beyond the prescribed period of limitation prescribed under Section 73(10) of the GST Act. He further submits that no opportunity of hearing was granted to the petitioner which is required and mandatory under Section 75(4) of the GST Act.
4. The issue with regard to non grant of hearing was considered by the Division Bench of this Court in the case of *M/S Atlas Cycles Haryana Limited Versus State of U.P. and another passed in Writ Tax No. 144 of 2024 decided on 12.02.2024* and held that the provisions of Section 75(4) of the GST Act are mandatory.
5. Without going to the arguments with regard to limitation and considering the submissions on the ground of non-grant of opportunity of hearing, the petition is allowed. Both the orders dated 20.04.2024 and 03.12.2024 are quashed. The respondent may pass a fresh order in accordance with law giving an opportunity of hearing. The petitioner would be at liberty to raise the question of limitation before the Assessing Authority.

Order Date :- 18.12.2024

VNP/-