



2025:UHC:6125-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI G. NARENDAR
AND
HON'BLE SRI JUSTICE ALOK MAHRA

15TH JULY, 2025

WRIT PETITION (M/B) No. 486 OF 2025

Birendra Pal Singh Petitioner

Versus

Assistant Commissioner, State Tax, Uttarkashi and another.
...Respondents

Counsel for the petitioner.	: Mr. Sagar Kothari, learned counsel.
Counsel for the State.	: Ms. Puja Banga, learned Brief Holder for the State.
Counsel for respondent No. 2	: Mr. Vinay Kumar, learned counsel.

JUDGMENT : (per Sri G. Narendar, C.J.)

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. The issue, in a nutshell, that arises for determination in the instant writ petition is, whether the amount levied as tax due is correct or not?

3. The case of the petitioner is that, on account of an addition of a numerical figure, the same has resulted in an arithmetical miscalculation and it has resulted in a situation, where the tax demand is more than the taxable value of the turnover / transactions undertaken by the petitioner.



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4. A perusal of the show cause notice (Annexure No. 1 to the writ petition) shows that for Financial Year 2020-21, for the period of June 2020, Rs. 6,59,000/- has been considered as the amount received by the petitioner from the Government Department, and Rs. 59,310/- and Rs. 59,310/- have been assessed as CGST and SGST respectively and, thereafter, interest was also directed to be computed on the same. Pursuant to the order dated 23.12.2024, a recovery certificate was issued against the petitioner.

5. Learned counsel for the petitioner submits that in the letter dated 17.04.2025 of the Additional General Manager of the respondent Department (Annexure No. 3 to the writ petition), which is addressed to the petitioner also, the aforesaid arithmetical mistake has been admitted.

6. The submission of the learned counsel is placed on record.

7. Learned counsel for the respondents would fairly submit that, in the event, there being a miscalculation or an arithmetical error on account of introduction of an additional numerical figure, the Department is always open for consideration of the same and the matter may be remitted back.



8. Having heard the counsels, we are of the opinion that the error being pointed out by the petitioner, being mere arithmetical error, the provisions of Section 161 of the Act can be invoked by the petitioner. That apart, the second proviso to Section 161 of the Act reads as under:-

“Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission.”

9. The case canvassed by the petitioner falls squarely within the ambit of the second proviso.

10. In that view of the matter, the writ petition is allowed in part. The petition is disposed of by granting liberty to the petitioner to prefer an Application under the second proviso to Section 161 of the Act and, if such an Application is made, the same shall be considered without reference to the limitation imposed under the first proviso and the same shall be considered and disposed of on merits by the A.O. Till such disposal of the Application preferred by the petitioner under Section 161 of the Act, there shall be no coercive action, subject to the condition that the Application, invoking the provision of Section 161 of the act, shall be made within two weeks from the date of receipt of the certified copy of this order.



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11. The petition stands ordered accordingly.
12. There shall be no order as to costs.

G. NARENDAR, C.J.

ALOK MAHRA, J.

Dt: 15th July, 2025
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