



2025:UHC:8601-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Writ Petition (M/B) No. 697 of 2025

23rd September, 2025

M/S Poddar Ispat Private Ltd.

-----Petitioner

Versus

Office of the Deputy Commissioner (A) and another

-----Respondents

Presence:-

Mr. Nirmal Dixit, Mr. Rakesh Prasad Singh and Mr. Saket Kumar,
learned counsel for the petitioner.

Mr. Puja Banga, learned counsel for the respondents.

JUDGMENT : (per Mr. SUBHASH UPADHYAY, J.)

Petitioner has filed the present Writ Petition
with the following prayers:

- (i) *Issue a writ of certiorari, or any other appropriate writ, order or direction in the nature thereof, quashing the impugned order dated 08.05.2025 along with DRC-07 dated 08.05.2025 bearing reference no. ZD0505250005133Z (Annexure-1) and also quashing of show cause notice dated 15.01.2025 along with Form DRC-01 dated 04.02.2025 bearing reference no. ZI050225002301B (Annexure-2) issued by the respondent no. 1 and also quash the notice for intimation of amount recoverable issued vide from DRC-01D dated 08.05.2025, issued on 04.08.2025 (Annexure-3).*



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- (ii) *Pass an appropriate writ, order or direction staying the operation, implementation, and execution of the recovery proceedings initiated under Section 79 of the CGST/UPGST Act pursuant to the notice for intimation of amount recoverable issued in FOR DRC-01D dated 08.05.2025, served on 04.08.2025, during the pendency of the present writ petition.*

2. Learned counsel for the petitioner contends that the entire proceedings culminating in the impugned order dated 08.05.2025 are vitiated by gross procedural irregularities and there is non-compliance with the mandatory provisions of the CGST Act and Rules. The denial of opportunity for personal hearing, and the passing of a non-speaking and mechanical adjudication order, all cumulatively render the impugned demand legally unsustainable.

3. Learned counsel for the petitioner further contends that the issue involved in the present case is covered by the order passed by the Hon'ble Court in Writ Petition (M/B) 316 of 2025, M/S Sri Sai Vishwas Polymers vs. Deputy Commissioner and another, decided on 05.06.2025.

4. Learned counsel for the respondent Ms. Puja Banga also submits that the present Writ Petition can be disposed of in terms of the order passed in the aforesaid Writ Petition. A Coordinate Bench of this Court in Writ



Petition (WPMB No. 316 of 2025) has held as hereunder:

“2. The short point, that is canvassed before this Court is that the Assessing Officer has passed the order of assessment in violation of the provisions of sub-section (4) of Section 75 of the Central Goods and Services Tax Act, 2017 (for short “CGST Act”). Section 75 of the CGST Act deals with the general provisions relating to determination of tax, and the procedure that is required to be adopted by the Assessing Authority, while completing the process of assessment. One such pre-requisite is that the Assessing Authority is required to afford an opportunity of personal hearing, where it is requested by the Assessee in writing, or where any adverse decision is contemplated against such person, meaning thereby that the Assessing Authority is required to comply with the mandate of sub-section (4) of Section 75 in either of the two circumstances, i.e. where a request for personal hearing is made and specifically sought for in writing, or where an adverse decision is contemplated against such person.

3. In the instant case, the Assessing Officer has drawn conclusions adverse to the interest of the petitioner, and that being the undisputed fact, the Assessing Authority was required to afford an opportunity of personal hearing, even in the absence of a written request. It is needless to say that, when the law requires a thing to be done in a particular manner, the said act shall be performed in the said manner alone, or not at all. Law in this regard is no more *res integra*, and is well-settled by catena of judgments of the Hon’ble Apex Court. A similar view was taken by the Hon’ble Supreme Court in the case of ***Independent Sugar Corporation Ltd. v. Girish Sriram Juneja & Ors., Civil Appeal No. 6071 of 2023 dated 29.01.2025***. Paragraph nos. 54 & 83 of the said judgment reads as follows:



“54. In the present interpretive exercise, one also needs to be mindful of the legal principle which says that where a statute requires one to do a certain thing in a certain manner, it must be done in that particular manner or not done at all. For this proposition, it would be relevant to extract the following from the judgment in *A. R. Antulay v. Ramdas Srinivas Nayak*, (1984) 2 SCC 500:

“22..... It is unnecessary to refer to the long line of decisions commencing from *Taylor v. Taylor* [(1876) 1 Ch D 426]; *Nazir Ahmad v. King-Emperor* [AIR 1936 PC 253 (2): 63 IA 372: (1936) 37 Cri LJ 897] and ending with *Chettiam Veetil Ammadu. Taluk Land Board* [(1980) 1 SCC 499: AIR 1979 SC 1573: (1979) 3 SCR 839], laying down hitherto uncontroverted legal principle that where a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.”

83. In *Sharif-ud-Din v. Abdul Gani Lone*, (1980) 1 SCC 403, the Supreme Court held as follows:

“9... In order to find out the true character of the legislation, the court has to ascertain the object which the provision of law in question has to subserve and its design and the context in which it is enacted. If the object of a law is to be defeated by non-compliance with it, it has to be regarded as mandatory... Whenever a statute prescribes that a particular act is to be done in a particular manner and also lays down that failure to comply with the said requirement leads to a specific consequence, it would be difficult to hold that the requirement is not mandatory and the specified consequence should not follow.”

4. The scheme of the Act mandates that, in either of the two circumstances, a personal hearing is required to be given to the party, who either makes a written request,



or against whom the authorities contemplate an adverse order. In the case on hand, the latter part is applicable, and the Assessing Authority ought to have complied with the mandate of sub-section (4) of Section 75 of the CGST Act.

5. Per contra, the learned Brief Holder for the Department would place reliance on an earlier order of this Court, rendered in Writ Petition (M/B) No. 256/2025. The facts involved in the instant case, and the facts involved therein are not on par. In the aforementioned decision, relied upon by the learned Brief Holder, the Court has not entered upon the merits and the binding effect of subsection (4) of Section 75, and has relegated the parties to the alternate remedy that is available under law. In the instant case, the petitioner has already approached the Competent Authority, and availed of the alternate remedy, and the Appellate Authority has been pleased to reject the same, on the ground of limitation alone.

6. The Appellate Authority failed to appreciate that the order impugned, results in civil consequences, and any proceedings, which results in civil consequences to the petitioner, are required to be passed after affording an opportunity of hearing. In the case of CGST Act, the Act itself, and in particular sub-section (4) of Section 75, mandates that an opportunity of personal hearing ought to be given to the parties concerned, more so when the authorities contemplate an order adverse to the interest of the assessee.

7. In that view of the matter, we are of the considered opinion that the Appellate Authority has failed to appreciate the settled position in law that no order, affecting civil rights of a citizen, can be passed without affording an opportunity of hearing, and also failed to appreciate the fact that the mandate, and the scheme of the Act itself, has been violated by the concerned



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authorities.”

5. In view of the above, the Writ Petition is disposed of in terms of the order passed in Writ Petition (M/B) 316 of 2015. The orders impugned in the Writ Petition are set-aside. The matter is remitted back to the competent Authority to proceed afresh from the stage of the Notice.

No order as to costs.

(G. NARENDAR, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 23.09.2025
Kaushal