



2025:UHC:9376-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE MR. G. NARENDAR, C.J.

HON'BLE MR. ASHISH NAITHANI, J

17th September, 2025

Writ Petition(M/B) No. 762 of 2025

M/s Amit Auto Sales and Spare Parts GSTIN (05ARVPJ0788L2Z1) ...Petitioner

Versus

Commissioner, State Goods and Service Tax, Dehradun and Another ...Respondents

Counsel for the Petitioner : Mr. Tarun Pande,
Advocate.

Counsel for the State : Ms. Puja Banga, Brief Holder.

JUDGMENT (Per Hon'ble Mr. Ashish Naithani, J)

The present writ petition has been filed under Article 226 of the Constitution of India by the Petitioner, M/s Amit Auto Sales and Spare Parts, through its proprietor, challenging two orders passed under the provisions of the Uttarakhand Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017.

2. The first is the assessment order dated 09.04.2024, passed by the Assistant Commissioner, State Tax, Tanakpur, whereby tax of ₹2,12,060, interest of ₹2,11,038, and penalty of ₹21,206 were imposed under Sections 73, 50 and 122 of the Act for the financial year 2018–19.

3. The second is the appellate order dated 01.07.2025, passed by the Joint Commissioner (Appeals), Haldwani,



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whereby the statutory appeal preferred by the Petitioner was dismissed as barred by limitation. The Petitioner prays for quashing of both the aforesaid orders and for protection from coercive recovery, contending that the delay was bonafide and that the assessment order suffers from procedural and factual infirmities.

4. The Petitioner is a registered dealer under the Goods and Services Tax laws, engaged in the retail trade of automobile parts and accessories under the trade name M/s Amit Auto Sales and Spare Parts. He holds a valid registration bearing GSTIN No. 05ARVPJ0788L2Z1 and has been regularly filing monthly returns in Forms GSTR-3B and GSTR-1. His principal place of business is situated within the jurisdiction of the Assistant Commissioner, State Tax, Tanakpur, District Champawat.

5. For the financial year 2018–19, the Petitioner's returns were selected for scrutiny by the Department. Upon examination of the returns, a notice in FORM ASMT-10 dated 21.02.2023 was issued to the Petitioner under Section 61 of the Act, pointing out discrepancies between the ITC claimed in GSTR-3B and that reflected in GSTR-2A.

6. It was alleged that the Petitioner had claimed an excess input tax credit of ₹2,12,060.59, which appeared to be ineligible. The notice further alleged a delay in the filing of monthly returns, thereby attracting liability to pay interest under Section 50 of the Act. The Petitioner was required to furnish a reply with supporting documents within fifteen days.

7. In response to the aforesaid notice, the Petitioner submitted that the alleged excess Input Tax Credit (ITC) arose from a mere accounting mismatch, which had already been voluntarily reversed in the return filed for April 2019,



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pertaining to the subsequent financial year 2019–20. It was clarified that the discrepancy was purely clerical in nature and did not involve any suppression of facts or intent to evade tax. The Petitioner further stated that, since the ITC reversal had already been effected, no additional tax liability subsisted and the proceedings, therefore, deserved to be closed.

8. Thereafter, the Department issued an intimation in FORM DRC-01A dated 26.10.2023 under Section 73(5) of the Act, quantifying the proposed demand at ₹4,44,304 comprising tax of ₹2,12,060, interest of ₹2,11,038 and penalty of ₹21,206, and inviting the Petitioner to pay the same or submit further objections within thirty days. The Petitioner, through FORM DRC-01A Part-B filed on 05.04.2024, reiterated its earlier stand that the excess ITC had already been reversed and requested closure of proceedings.

9. Despite such a reply, a show cause notice in FORM DRC-01 dated 26.12.2023 was issued by the Assistant Commissioner proposing the determination of tax, interest and penalty under Sections 73, 50 and 122 of the Act. The Petitioner again asserted that the reversal of ITC was already reflected in the subsequent return and prayed for the dropping of the proceedings. However, the Assistant Commissioner, without accepting the explanation, passed the order-in-original dated 09.04.2024 confirming the proposed demand of ₹4,44,304 for the financial year 2018–19.

10. Aggrieved by the aforesaid order, the Petitioner preferred a statutory appeal under Section 107 of the Goods and Services Tax Act, 2017 before the Joint Commissioner (Appeals), Haldwani. The appeal was instituted on 16.12.2024 along with an application seeking condonation of delay, explaining that the delay of 162 days had occurred due to



unavoidable circumstances and medical exigencies. The Petitioner, therefore, prayed that the delay be condoned and the appeal be decided on the merits.

11. The Appellate Authority, however, vide order dated 01.07.2025, dismissed the appeal at the stage of admission on the ground of limitation. It was observed that under Section 107(1) and (4) of the Act, an appeal can be filed within three months from the date of communication of the order, and a delay of one month may be condoned on sufficient cause being shown. Since the appeal was filed after 162 days, the authority held that it had no jurisdiction to entertain the same and accordingly dismissed it as time-barred without examining the merits of the case.

12. The Petitioner thereafter approached this Court under Article 226 of the Constitution of India, assailing both the orders referred to hereinabove. The principal grounds urged in the writ petition are that the order-in-original was passed in violation of the principles of natural justice, without due consideration of the Petitioner's reply submitted in Form DRC-01A; that the alleged discrepancy in Input Tax Credit (ITC) had already been rectified in the subsequent return; and that the appeal came to be dismissed on a mere technical ground of limitation, despite there being a bona fide cause for delay and in the absence of a functional Goods and Services Tax Appellate Tribunal in the State of Uttarakhand.

13. Heard learned counsel for the parties and perused the records.

14. Learned counsel for the Petitioner submitted that the impugned order dated 09.04.2024 has been passed in violation of the principles of natural justice and without due appreciation of the material placed on record.



15. It is contended that the entire proceedings originated from a clerical mismatch between GSTR-3B and GSTR-2A for the financial year 2018–19, which was subsequently rectified in the return of April 2019. The Petitioner had, much prior to initiation of adjudication, voluntarily reversed the alleged excess input tax credit of ₹2,12,060.59. Hence, there was neither suppression of facts nor any intention to evade tax. It was argued that once the credit was reversed and no wrongful gain was derived, there was no occasion for the imposition of interest under Section 50 or penalty under Section 122 of the Act.

16. Learned counsel further submitted it for the Petitioner that both the show cause notice and the final order were issued mechanically, without due consideration of the reply furnished in Form DRC-01A (Part-B) on 05.04.2024. It was urged that the authority failed to record any finding on the specific plea that the reversal of Input Tax Credit (ITC) had already been effected and that the alleged discrepancy stood reconciled. It was contended that the impugned order thus suffers from non-application of mind and violates the mandatory requirement of a reasoned and speaking order under Section 73(9) of the Act.

17. Learned counsel also urged that the subsequent appeal filed on 16.12.2024 was dismissed merely on the ground of limitation, overlooking the fact that the delay of 162 days was due to unavoidable circumstances beyond the Petitioner's control. It was argued that the Appellate Authority ought to have adopted a liberal approach, particularly because the Petitioner had shown bona fide reasons and had expressed willingness to deposit part of the demand.



18. Learned counsel submitted that in the peculiar situation where the Goods and Services Tax Appellate Tribunal has not yet been constituted in the State of Uttarakhand, the Petitioner is left without an effective statutory remedy, and this Court should therefore exercise its extraordinary jurisdiction to protect the Petitioner from coercive recovery till the Tribunal becomes functional.

19. On the other hand, learned State counsel, Ms. Pooja Banga, opposed the writ petition and supported the impugned orders. It was submitted that the order-in-original dated 09.04.2024 was passed strictly in accordance with law after issuance of notice and grant of adequate opportunity of hearing.

20. The records disclose that multiple communications were issued to the Petitioner, namely the notice in ASMT-10 dated 21.02.2023, intimation in DRC-01A dated 26.10.2023, and the show cause notice in DRC-01 dated 26.12.2023, but the Petitioner neither furnished satisfactory documentary proof of reversal of ITC nor deposited the tax amount voluntarily. Hence, the assessing officer was justified in finalising the proceedings under Section 73.

21. Learned State Counsel further submitted that the appeal was rightly rejected as being barred by limitation, since Section 107(4) of the Act permits condonation of delay only up to one month beyond the prescribed three-month limitation period. Since the appeal had been filed after 162 days, the Appellate Authority was statutorily precluded from entertaining it, and no writ can be issued to compel an authority to act in excess of its jurisdiction.

22. It was further contended that the non-constitution of the Appellate Tribunal does not confer upon the Petitioner



any right to circumvent the statutory limitation or to seek substantive relief in writ jurisdiction, particularly when the legislature has consciously prescribed a specific time frame for filing appeals.

23. It was further submitted on behalf of the learned counsel for the State that the Petitioner had availed excess ITC without proper verification and that subsequent reversal in another financial year cannot absolve the liability of interest under Section 50, which is automatic and compensatory in nature. Penalty under Section 122 was also rightly imposed in view of the contravention of statutory provisions. Learned counsel therefore prayed that the writ petition be dismissed, as the orders impugned neither suffer from jurisdictional error nor from violation of natural justice.

24. Having heard learned counsel for the parties and perused the material on record, this Court finds that the foundational facts of the case are largely undisputed. The Petitioner, a registered dealer under the GST regime, was issued notice on the allegation that an excess Input Tax Credit (ITC) of ₹2,12,060.59 had been claimed for the financial year 2018–19. It is admitted that the said discrepancy was not the result of any suppression or misrepresentation, but arose due to a clerical mismatch between the figures reflected in Form GSTR-3B and the auto-populated data in Form GSTR-2A.

25. The Petitioner, prior to initiation of adjudication, voluntarily reversed the said excess credit in the return for April 2019 pertaining to the subsequent financial year 2019–20. The reversal was duly carried out through the electronic credit ledger, and the same is reflected in the statutory records of the Petitioner. This fact was also specifically stated in the



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reply furnished in Form DRC-01A (Part-B) dated 05.04.2024. The Petitioner thereby restored the position of revenue, ensuring that no undue credit or benefit continued to remain in its account.

26. Upon consideration of the correspondence and pleadings, this Court finds substance in the Petitioner's contention that once the excess ITC had been voluntarily reversed, the basis of the proposed demand under Section 73 of the Act ceased to exist. The mechanism under Section 73 is intended to address wrongful availment or utilization of credit which remains outstanding or unrectified. Where the alleged discrepancy has already been neutralized by reversal prior to determination, the element of "undue benefit" or "retained credit" is extinguished.

27. In the present case, the reversal having been affected, no actual loss has occurred to the exchequer. The tax component corresponding to the alleged excess credit has been duly adjusted, and the revenue stands restored to its correct position. The purpose of Section 73 being compensatory and restorative in nature, once the reversal has taken place, initiation or continuation of proceedings for demand, interest, or penalty becomes redundant.

28. It is also noteworthy that the proceedings have at all stages acknowledged the Petitioner's communication asserting reversal. The Department has not produced any material to disprove or contradict that the reversal entry was made in the subsequent return. Even assuming that the reversal was reflected in a later financial period, such



adjustment satisfies the substantive requirement of law, for the tax credit system under the GST Act is designed to ensure neutrality of revenue rather than to penalize bona fide accounting errors.

29. The levy of interest under Section 50 of the Act, though ordinarily compensatory, cannot survive where the tax amount was never wrongfully retained or utilized, and the credit was restored voluntarily without invocation of coercive measures. Similarly, penalty under Section 122 is attracted only in cases of deliberate contravention or fraudulent intent, which is conspicuously absent in the present matter.

30. This Court is therefore of the view that once the Petitioner had reversed the alleged excess ITC and the corresponding tax liability stood duly reconciled, the substratum of the assessment order dated 09.04.2024 no longer survives for enforcement. The Petitioner, having neutralized the discrepancy prior to adjudication, cannot be subjected to further recovery or penalty for a demand that stands satisfied in substance.

31. Accordingly, this Court observes that the entire purpose of the proceedings under Section 73 of the Act has been achieved by the voluntary reversal of the credit, and no fiscal prejudice remains to the Department. In such circumstances, any attempt at recovery or penal action would amount to duplication of liability and would offend the principle of proportionality embedded in fiscal jurisprudence.



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32. The assessment order, though passed after notice and opportunity, thus requires to be read in the light of the subsequent reversal, which extinguishes the demand in effect. The Court finds that, as the Petitioner has already returned the excess ITC and the revenue stands duly adjusted, no recoverable demand survives. The impugned demand and its consequential proceedings therefore stand satisfied in substance.

ORDER

In view of the discussion made above, this Court finds that the Petitioner had already reversed the amount of Input Tax Credit alleged to have been claimed in excess, and the corresponding tax liability now stands duly adjusted. In such circumstances, no further demand survives for recovery.

Accordingly, the writ petition is disposed of with the observation that, as the alleged discrepancy stands reconciled and no outstanding dues remain payable, no coercive measures shall be taken by the Department in respect of the demand raised under the order dated 09.04.2024.

The writ petition stands disposed of in the above terms. No order as to costs.

G. NARENDAR, C.J.

ASHISH NAITHANI, J.

Dt:17.09.2025

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