



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. 815 of 2025

29th October, 2025

M/s Ashan Khan Contractor

---Petitioner

Versus

The Assistant Commissioner

State Goods & Services Tax, Kashipur ---Respondent

Presence:-

Dr. Govind Singh Latwal and Mr. Ravindra Singh Rawat, learned counsel for the petitioner

Ms. Puja Banga, learned Brief Holder for the State (through V.C.)

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

1. Heard the learned counsel for the petitioner and the learned Standing Counsel for the Department.

2. The short issue canvassed by the learned counsel for the petitioner is that the Assessing Officer while assessing the tax dues of the petitioner has assessed it @ 18% and that during the relevant assessment year, a concessional rate was levied in respect of works executed in favour of the Central Government, State Government, Union Territory and Local Authority; that the work executed by the petitioner



was in favour of the State Government and, in that view, he was entitled to be taxed at the concessional rate of 12%.

3. The learned Standing Counsel was directed to secure instructions. Today, the learned Standing Counsel has placed before the Court a copy of the Office Order dated 10.08.2022. Para-1 of the said Office Order reads as under:-

"1. The Government of India, Ministry of Finance (Department of Revenue) vide Notification No.03/2022-Central Tax (Rate) dated 13 July, 2022 has made amendments to notification No.11/2017-Central Tax (Rate) dated 28.06.2017 by omitting entries against serial number 3, in column (3) (a) items (iii), (iv), (v), (va), (vi) and (ix) and the corresponding entries relating thereto in column (4) and (5) in the original notification No.11/2017-Central Tax (Rate) dated 28.06.2017, thereby the existing concessional rate of GST @ 12% for Central Government, State Government, Union Territory and a Local Authority has been withdrawn and now the applicable rate of GST is 9 (CGST) + 9 (SGST) = 18% on construction services covered under S.No.3 (i f) at page No.6 and under S. No.3(xii) at page No.15 of Notification No.11/2017-Central Tax (Rate) dt 28 June, 2017 for Central Govt., State Govt. Union Territory and a Local Authority with effect from 18th July, 2022."

4. A bare reading of the above paragraph leaves



no doubt in the mind of this Court that the exigible rate of taxation prior to 18.07.2022 was 12% i.e. in respect of works executed in favour of Central Government, State Government and Local Authority. In that view, there being an error apparent on the face of the record, we are of the considered opinion that the issue could be resolved by reserving liberty to the petitioner to prefer a rectification application, as provided under section 161 of the GST Act, 2017, and if such an application is filed within 15 days from the date of receipt of a copy of this order, the same shall be considered and disposed of by the Assessing Officer within a period of 15 days thereafter.

5. Writ Petition stands ordered, accordingly.
There shall be no order as to costs.

(G. NARENDAR, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 29.10.2025

R/SS