



2025:AHC:175121-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 5039 of 2025

M/S Shri Laxmi Earth Movers

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Satyarth Agarwal, Siddharth Agrawal
Counsel for Respondent(s)	:	C.S.C.

Court No. - 3

HON'BLE SHEKHAR B. SARAF, J.

HON'BLE ARUN KUMAR, J.

1. This writ petition has been filed by the petitioner aggrieved of the order dated 08.12.2023 passed by respondent no.2 under Section 73 of the UPGST Act, 2017 for the Tax Period April 2019-March 2020.
2. Submissions have been made that registration of the petitioner was cancelled on 20.01.2021 by order dated 11.02.2021 with effect from the date of the notice. It is submitted that after cancellation of the registration, there was no occasion for the petitioner to have visited the portal of the Department wherein the petitioner was issued a show cause notice dated 02.09.2023 pertaining to Financial Year 2017-18 (Tax period April 2017-March 2018) which also was uploaded on the Additional Tab. It is submitted that thereafter an ex parte order dated 08.12.2023 has been passed and the same was not enforced.
3. Now, the petitioner has been called upon by the respondents to make payment of the amount pursuant to the order dated 08.12.2023 in the month of August, 2025, when the petitioner became aware of passing of the order dated 08.12.2023.
4. It is submitted by learned counsel for the petitioner that in a similar nature petition being **M/s Shiv Shakti Traders Vs. State of U.P. and another:** Writ Tax No. 518 of 2025 decided on 19.02.2025, this Court had allowed the petition whereby the order impugned was set aside and the matter was remanded back to the Assessing Authority.
5. The State is not in a position to dispute the same. In the case of **M/s Shiv Shakti Enterprises (supra)**, this Court inter alia observed as under:

"4. Submissions have been made that once the petitioner had applied for cancellation of the registration, which apparently was not dealt with by the respondents at the relevant time and subsequently on 08.05.2024, the same has been cancelled with effect from 01.04.2021, there was no occasion for the respondents to have issued the notice in the Additional Tab, therefore, the ex parte order deserves to be quashed and set aside. Reliance has been placed on Chemsilk Commerce Pvt Ltd. Vs. State of U.P. and another : Writ Tax No. 403 of 2024, wherein in similar circumstances, the petition was allowed.

5. Counsel for the respondents does not dispute the fact that the petitioner had applied on 01.07.2021 seeking cancellation of registration and thereafter also it was issued notices for non-filing of returns, which establishes that the petitioner was not in business.

6. We have considered the submissions made by counsel for the parties and have perused the material available on record.

7. The application for cancellation filed on 01.07.2021 is evidenced by Annexure-4 and the very fact that the registration has been cancelled with effect from 01.04.2021 though order in this regard was passed on 08.05.2024, establishes the fact that the petitioner apparently had gone out of business and, therefore, there was no occasion for the petitioner to have visited the Department Portal to find out if any show cause notice had been issued for period prior to seeking cancellation or order passed. It is not the case of the Department that any notice in person was served on the petitioner.

8. A Coordinate Bench of this Court in Chemsilk Commerce Pvt. Ltd. (supra) in similar circumstances on finding that there has been violation of principles of natural justice, has set aside the order passed.

9. Consequently, the present petition is allowed, the order dated 27.08.2022 is set aside. The matter is remanded back to the assessing authority, the petitioner may submit its response to the show cause notice as issued within a period of 15 days from today and after providing opportunity of hearing to the petitioner, the authority would pass a fresh order."

6. In view of submissions made, following the order in the case of M/s

Shiv Shakti Enterprises (supra), the writ petition is allowed. The order dated 08.12.2023⁴ is set aside.

7. The matter is remanded to the assessing authority, the petitioner may submit its response to the show cause notice as issued within a period of fifteen days from today and after providing opportunity of hearing to the petitioner, the authority will pass a fresh order.

(Arun Kumar,J.) (Shekhar B. Saraf,J.)

September 26, 2025
Ashok Kr.