2026:UHC:6417-DB

# IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

**HON'BLE THE CHIEF JUSTICE SRI MANOJ KUMAR GUPTA**
**AND**
**HON'BLE SRI JUSTICE SUBHASH UPADHYAY**

**WRIT PETITION (M/B) NO. 94 OF 2025**

**23RD JULY, 2026**

M/s Seema Agencies ..... Petitioner

Versus

Commissioner, State Tax & others ..... Respondents

| | | |
|---|---|---|
| Counsel for the petitioner | : | Mr. Tarun Pande, learned counsel |
| Counsel for the respondents | : | Ms. Puja Banga, learned Standing Counsel for the State through video conferencing |

**The Court made the following:**

**JUDGMENT: (per Sri Manoj Kumar Gupta, C.J.)**

1) Heard Mr. Tarun Pande, learned counsel for the petitioner and Ms. Pooja Banga, learned counsel for the respondents-State.

2) The petitioner has assailed the order dated 26.04.2024 passed by respondent No. 3 under Section 73(9) read with Section 50 and Section 122(2)(a) of the CGST Act / UKGST Act, demanding tax of Rs.4,59,047/-, along with interest amount of Rs. 3,92,767/- and penalty of Rs.47,824/-, total sum of Rs. 8,99,638/-, under the provisions of SGST and CGST respectively.

3) The case of the petitioner is that a show-cause notice was issued to the petitioner on 14.12.2023, whereby time was granted to the petitioner to submit his reply by 13.01.2024. By the same notice, date of personal hearing was fixed for 27.12.2023, i.e., before the date fixed for submission of reply.

4) The contention of learned counsel for the petitioner is that the date of personal hearing could not have been fixed before the date fixed for submission of reply. The procedure adopted by the respondents was, therefore, wholly illegal.

5) The further submission is that the show-cause notice was not served upon the petitioner by any physical mode but by uploading the same on the GST portal and petitioner could not come to know of the same.

6) Learned counsel for the petitioner placed reliance on a judgment of Coordinate Bench in Writ Petition (M/B) No. 123 of 2025, *M/s Modine Thermal Systems Private Limited vs. State of Uttarakhand and others*, in support of the submission that the date of personal hearing could not be prior to the date fixed for submission of reply to the Show Cause Notice. The relevant extract from the said judgment is as follows:

"5) A conjunctive reading of Section 73, 74 and 75 makes it apparent that the approach adopted by the Authority is contrary to the scheme of the Act. Sub-Section 4 and 5 of Section 75 of the Act reads as under:-

> "75.(4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.
>
> (5) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing: Provided that no such adjournment shall be granted for more than three times to a person during the proceedings."

6) The scheme of the Act enables the assessee to seek for adjournment not in excess of three times and it is pertinent to note that sub-section 5 succeeds sub-section 4, which enables the assessee to seek for a personal hearing. Section 75 relates to the procedural aspect that is required to be followed by the Authorities in the matter of determination of assessment, more particularly, of tax that has escaped assessment.

7) If the statute stipulates a matter to be performed in a particular manner, the same shall be performed in that manner only. Law in this regard is no more res integra and is well-settled by catena of judgments of the Apex Court."

7) Learned counsel for the Revenue Ms. Pooja Banga is not in a position to dispute that since date for

personal hearing was fixed prior to the date of submission of reply and, therefore, personal hearing allegedly afforded was not effective and, has resulted in breach of principles of natural justice.

8) Consequently, the order of assessment cannot be sustained and is hereby quashed. The matter is remitted back to the Adjudicating Officer to proceed from the stage of Show Cause Notice and grant opportunity to the petitioner to file his reply and, thereafter, fix a date for personal hearing.

9) Accordingly, the writ petition stands disposed of.

10) Pending application(s), if any, also stand disposed of.

**MANOJ KUMAR GUPTA, C.J.**

**SUBHASH UPADHYAY, J.**

Dt: 23RD JULY, 2026
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HIMANSHU NEGI

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