



2025:AHC-LKO:71880

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**WRIT TAX No. - 1284 of 2025**

M/S Kisan Brick Field, Para Saray Itiyathok Gonda  
Thru. Proprietor Shaban Mohammad

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Tax And  
Registration Lko. And 3 Others

.....Respondent(s)

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Counsel for Petitioner(s)	:	Utkarsh Misra, Abhishek
Counsel for Respondent(s)	:	C.S.C.

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**Court No. - 6**

**HON'BLE JASPREET SINGH, J.**

1. This petition is directed against the order dated 16.02.2025 passed by respondent no.4 for financial year 2020-21, whereby a demand to the tune of Rs.6,52,259.04/- has been raised against the petitioner. The petitioner further prayed for quashing of the order dated 08.10.2025 passed by the respondent No.3, whereby the appeal of the petitioner has been rejected on the ground of delay.

2. The petitioner was issued a show-cause notice dated 11.11.2024 under Section 74 of Goods and Services Tax Act, 2017 (hereinafter referred to as 'the Act') in GST DRC-01 fixing 11.11.2024 for filing reply. The notice, inter alia, called upon the petitioner as to why tax, penalty and interest Rs.6,52,259.04/- be not imposed. As the said notice was uploaded on 'Additional Notices and Orders' tab, the petitioner, being unaware of the same, could not file any response to the said show-cause notice. A reminder was issued to the petitioner fixing 27.01.2025 as the date by which the reply could be filed. However, as no appearance was made, the same led to passing of the order dated 16.02.2025 raising the demand as indicated herein above.

3. Learned counsel for the petitioner made submissions that action of the respondents in raising demand to the tune of Rs.6,52,259.04/- which includes penalty and interest is contrary to the show-cause notice issued to the petitioner and in violation of Section 75(7) of the Act inasmuch the

same is beyond the show-cause notice wherein a demand to the tune of Rs.6,52,259.04/- against tax, interest and penalty was sought to be recovered.

4. Further submissions have been made that while issuing the show-cause notice and the reminder, dates of filing reply were fixed, however, in column pertaining to the date of personal hearing, 'NA' was indicated which is also in violation of principles of natural justice. It is prayed that the order impugned, being in violation of provisions of Section 75(7) of the Act and in violation of the principles of natural justice, be set aside and matter be remanded back to the authority to provide opportunity of hearing and pass appropriate order in accordance with law.

5. Learned Additional Chief Standing Counsel Shri Sanjay Sarin opposed the submissions made. Submissions have been made that the petitioner, despite issuance of notice and reminder, has chosen not to file response and, therefore, passing of the order cannot be said to be in violation of principles of natural justice and, therefore, the petition deserves dismissal. Submissions were made that charging interest and penalty is statutory and, therefore, irrespective of the fact that the same has not been indicated in the show-cause notice, would not take away the power of the authority in demanding the interest and penalty in accordance with law and on that count also, the petition deserves dismissal.

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

7. Provisions of Section 75(7), inter alia, read as under:

"(7) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice."

8. A perusal of the above would reveal that Section 75 deals with general provisions relating to determination of tax and sub-section (7) specifically stipulates that the amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no

demand shall be confirmed on the grounds other than the grounds specified in the notice.

9. Admittedly, in the present case, the show-cause notice merely indicates the amount of Rs.2,34,626.52/- as representing the tax, interest and penalty and the demand qua the three components has been raised at Rs.6,52,259.04/-, which is ex facie contrary to the provisions of Section 75(7) of the Act.

10. So far as the plea pertaining to not providing any opportunity of personal hearing is concerned, once it is the case of the petitioner that it was unaware of the issuance of the show-cause notice, the fact that in the notice issued to the petitioner, the date of filing of reply was indicated, loses its significance and it cannot be said that on account of such indication, the notice, on its own, would stand vitiated.

11. In view of the above discussion, on account of violation of provisions of Section 75(7) of the Act, the order impugned cannot be sustained.

12. Consequently, the writ petition is **allowed**. Order dated 08.10.2025 and 16.02.2025 (Annexure-2 and 3) are quashed and set aside and the matter is remanded back to the respondent no.4 to provide an opportunity to the petitioner to file response to the show-cause notice and after providing opportunity of hearing, pass a fresh order in accordance with law.

(Jaspreet Singh,J.)

**November 12, 2025**

Rakesh/-