



2025:AHC-LKO:74976

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT TAX No. - 1336 of 2025

M/S Chaurasiya Zarda Bhandar Thru. Proprietor Rakesh
Chaurasiya And Another

.....Petitioner(s)

Versus

State Of U.P. Thru. Commoissioner State Tax Lko. And 2
Others

.....Respondent(s)

Counsel for Petitioner(s) : Rajesh Chandra Mishra, Shashwat Anand
Dixit
Counsel for Respondent(s) : C.S.C.

Court No. - 8

HON'BLE MANISH KUMAR, J.

Heard Sri R.C Mishra learned counsel for the petitioners and Sri Sanjay Sarin learned Additional Chief Standing counsel for the State revenue.

Under challenge is the order dated 29.09.2025 whereby the petitioner's appeal was dismissed on the ground of delay. As a consequence, the assessment and demand order dated 29.08.2024 passed by the respondent no.3 has been affirmed.

Submission of learned counsel for the petitioner precisely is that a show cause notice was issued to the petitioner, a copy of which has been brought on record as Annexure-5 wherein for the financial year 2019-20, a tax liability of Rs. 2907002/- was shown against the petitioner and he was required to show cause as to why the same may not be recovered.

It is further urged that in the said show cause notice, there was no propose for imposition of any interest or penalty and the total outstanding was Rs.2907002/-.

Learned counsel for the petitioner has referred to Section 75(7) to indicate that the amount of tax, interest and penalty demanded in the order shall not be in excess of the tax determined by the proper officer and no demand shall be confirmed on the ground other than the grounds specified in the notice.

Relying heavily on the aforesaid provisions, it is urged that that once there was no demand or even proposal to impose any penalty or interest then the order dated 11.02.2025 is patently against the provisions as a sum of Rs.5,12,453/- towards interest under the CGST and SGST (each) and penalty of Rs. 5,12,453/- CGST and SGST (each) totaling a sum of Rs.55,71,191/- is sought to be recovered and pressed against the petitioner.

Sri Sareen learned Additional Chief Standing counsel for the revenue could not

dispute the fact that in the show cause notice issued to the petitioner, there was no reference for any imposition of interest or penalty, however, the same has been imposed in the impugned order dated 29.08.2024 which apparently is against the provision of Section 75(7).

This Court is satisfied that the impugned order dated 29.08.2024 cannot be sustained being arbitrary and against the specific provisions, accordingly, it is quashed and set aside. Since the impugned orders have been set aside, the attachment order dated 11.09.2025 also stands quashed. The matter shall stand remitted to the adjudicating authority who shall pass fresh orders.

With the aforesaid, the petition is allowed.

November 19, 2025
Ashish

(Manish Kumar,J.)