

Court No. - 7

Case :- WRIT TAX No. - 3684 of 2025

Petitioner :- M/S Rajdhani Udyog

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Divya Prakash Tripathi, Ravi Pratap Singh, Tanmay Sadh

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal, J.

List again on 07.08.2025 as fresh.

Order Date :- 6.8.2025

Amit Mishra

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Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Divya Prakash Tripathi, Ravi Pratap Singh, Tanmay Sadh

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal, J.

1. Heard learned counsel for the petitioner and Shri Ravi Shankar Pandey, learned ACSC for the State - respondents.

2. Learned counsel for the petitioner submits that the business premises of the petitioner was surveyed on 22.10.2019. On the basis of the said survey, proceedings under section 130, read with section 122 of the GST Act were initiated against the petitioner, against which the petitioner preferred an appeal, which has been illegally rejected without considering the materials available on record.

3. Learned counsel for the petitioner further submits that the proceedings under section 130 of the GST Act could not have been initiated against the petitioner; rather, proceedings under sections 73/74 of the GST Act should have been initiated. He further submits that the issue in hand is squarely covered by the decision of this Court in ***S/s Dinesh Kumar Pradeep Kumar Vs. Additional Commissioner, Grade - 2 & Another*** [Writ Tax No. 1082 of 2022, decided on 25.07.2024], which has been affirmed by the Apex Court in Special Leave Petition (Civil) Diary No. 5879 of 2025 vide order dated 17.4.2025. Thereafter, the said judgement has been followed in catena of judgements, one of which is ***M/s Janta Machine Tools Vs. State of U.P. & 2 Others*** [Writ Tax No. 1503/2024, decided on 22.05.2025]. He further submits that as on date, no interim order is operating in favour of the State and therefore, the State authorities are duty-bound to follow the order passed by this Court.

4. Learned ACSC could not justify the impugned orders.

5. On almost every day, it has been noticed by this Court that in spite of the law settled by this Court as well as Apex Court, the GST authorities are acting at their whims and fancies and passing orders contrary to the settled principles laid down by this Court and the present case is one of the glaring examples of the same.

6. The decisions of this Court are precedents/rulings and thus, are binding judicial pronouncements upon the subordinate judiciary/tribunal. The precedents maintain judicial uniformity, by which disharmony in the application of law is self avoided. The binding precedent is important in hierarchy of Courts. For working of the same, it is necessary that the judgements/orders of the higher courts are followed unreservedly; otherwise, there will be a judicial chaos.

7. While it is expected from the citizen to know law, the duty of the Officers increases that they should also know the law laid down by the higher courts.

8. In view of the above, let the Additional Commissioner, Grade - II (Appeal-1), Commercial Tax Department, Varanasi (who has passed the impugned order dated 09.11.2024) as well as the present incumbent file their personal affidavits within a period of two weeks from today explaining their conduct as to why the impugned order has been passed in contravention of the law settled by this Court as well as the Apex Court, failing which this Court will be constrained to take serious view of the matter on the next date fixed.

9. Until further orders of this Court, no coercive action shall be taken against the petitioner pursuant to the impugned orders.

10. List again as fresh on 25.08.2025.

11. Shri Ravi Shankar Pandey, learned ACSC shall communicate this order within 24 hours to the concerned Officers for compliance of the order.

Order Date :- 7.8.2025

Amit Mishra

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Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal, J.

1. Heard learned counsel for the petitioner and learned Additional Chief Standing Counsel for the State-respondents.

2. In pursuance of the order dated 07.08.2025 of this Court, two personal affidavits on behalf of the respondents have been filed respectively, which are taken on record.

3. Learned A.C.S.C. presses the personal affidavit filed on behalf of the officer namely Sushil Kumar Singh, who passed the impugned order dated 09.11.2024 in Appeal No.44/26.04.2021 (2020-21). The paragraph nos. 6 & 14 of the said affidavit is quoted as below:

"6. That it is also relevant to submit that the judgment of this Hon'ble Court in M/s Janta Machine Tools Vs. State of U.P. & 2 others [Writ Tax No.1503/2024, decided on 22.05.2025] as well as the order of the Hon'ble Supreme Court dated 17.04.2025 in SLP (Civil) Diary No.5879 of 2025, were subsequent to the date of the appellate order passed by the deponent on 09.11.2024. Hence, these judgments were not available for consideration at the time of deciding the appeal.

14. That the deponent most respectfully submits that the impugned appellate order was passed bona fide and in accordance with the law and judicial position as prevailing on the said date. The subsequent decisions in M/s Dinesh Kumar Pradeep Kumar and M/s Janta Machine Tools were delivered much later and were not cited before the deponent at the time of deciding the appeal. The deponent, therefore, acted in good faith and without any intent to disregard the law laid down by the Hon'ble Courts. The deponent undertakes to abide by and follow in letter and spirit the law as has now been settled by the Hon'ble High Court as well as by the Hon'ble Apex Court. All the proceedings have been initiated in accordance with law. It is further most respectfully prayed that this Hon'ble Court may be pleased to accept the present personal affidavit and treat it as part of record and also decide the case on merits so that justice may be done."

4. Perusal of the afore-quoted paragraphs shows that the officer has very conveniently states that when the order was passed on 09.11.2024, the order dated 22.05.2025 passed in **Writ Tax No.1503/2022** and the order dated 17.04.2025 passed in **SLP (Civil) Diary No.5879 of 2025** was not available for consideration at the time of deciding the appeal.

5. Further, in para no.5 of the said affidavit, the deponent has admitted that that the writ court has passed an order on 25.07.2024 in Writ Tax No.1082 of 2022 (M/s Dinesh Kumar Pradeep Kumar Vs. Addl. Commissioner, Grade-II, but not a word has been whispered that one the writ Court has passed an order, the same has not been followed while passing the impugned order.

6. Confronted with the said fact, learned A.C.S.C. prays for a better affidavit.

7. In view of the above, the case is adjourned subject to payment of Rs.5,000/- to be made to the petitioner from the salary of the respondent who has passed the impugned order, before the next date fixed.

8. Let the Principal Secretary, Institutional Finance, Government of U.P., Lucknow/respondent no.1 file his personal affidavit explaining the conduct of the officers of the State for not following the orders passed by the writ Court.

9. Further, it is directed that in the said personal affidavit to be filed, the concerned authority is hereby directed to formulate and disseminate a comprehensive & structured road map to ensure that all the concerned officers are duly updated regarding the recent judicial pronouncements.

10. List the matter again on 09.09.2025, as fresh.

Order Date :- 25.8.2025

Pravesh Mishra