HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI MANOJ KUMAR GUPTA, C.J.

AND

HON'BLE SRI JUSTICE SUBHASH UPADHYAY, J.

7th August, 2026
Writ Petition (M/B) No. 627 of 2026

Xithelia Nova Healthcare Private Ltd. ....Petitioner

Versus

State of Uttarakhand and Others ----Respondents

Presence:-
Mr. Ashutosh Joshi, learned counsel for the petitioner.
Ms. Pooja Banga, learned Standing Counsel for the State through V.C.
Mr. Aryan Dev Uniyal, learned Standing Counsel for the respondent no.4/ Union of India.

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

1. The petitioner has filed the writ petition with the following prayers:

> "I. Issue a writ, order or direction in the nature of Certiorari quashing the impugned adjudication order passed in Form GST DRC-07 [Annexure no 5, pages no 22 to 24] for the Financial Year 2018-19 by respondent No.3, whereby a demand of Rs. 6,91,599/- (inclusive of tax and penalty) has been raised against the petitioner, along with all consequential recovery proceedings arising therefrom.
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> II. Issue a writ, order or direction in the nature of Certiorari quashing the entire proceedings initiated against the petitioner, including Notice in Form GST ASMT-10 dated 06.11.2023; [Annexure no 04, page no 20 to 21] and all consequential proceedings arising therefrom, having been conducted in violation of Sections 169 and 75(4) of the CGST/UKGST Act and in breach of the principles of natural justice.
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> III. Issue a writ, order or direction in the nature of Mandamus directing respondent No.3 to undertake a fresh adjudication from the stage of the Show Cause

Notice by:

(a) serving fresh notices upon the petitioner strictly in accordance with Section 169 of the CGST/UKGST Act through legally recognized modes of service;

(b) supplying all relied upon documents, reconciliation statements, calculation sheets and other materials forming the basis of the proposed demand;

(c) granting the petitioner adequate opportunity to file a detailed reply, produce books of accounts, tax invoices and other documentary evidence in support of its claim of Input Tax Credit:

(d) affording an effective opportunity of personal hearing under Section 75(4) of the CGST/UKGST Act, and

(e) thereafter passing a fresh, reasoned and speaking order strictly in accordance with law, uninfluenced by the findings contained in the impugned order.

IV. Issue any other writ, order or direction which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the present case

V. Award the costs of the present writ petition in favour of the petitioner."

2. The case of the petitioner is that the registration of the petitioner-company was cancelled on 03.04.2021 w.e.f. 24.03.2021. The submission of learned counsel for the petitioner is that the Show Cause Notice dated 06.11.2023 was sought to be served upon the petitioner by uploading the same on the GST portal. However, after cancellation of the registration of petitioner-company, there was no occasion for the petitioner to keep checking the GST portal and, therefore, it could not come to know of the Show Cause

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Notice and the Adjudication order.

3. It is submitted that in similar facts and circumstances, this Court has quashed the Adjudication order and has permitted the department to proceed from the stage of Show Cause Notice. Reliance has been placed on the order of this Court dated 16.02.2026, in Writ Petition (M/B) No. 1140 of 2025 , *Raj Shekhar Pandey vs. State Tax Officer*. The said judgment and order was passed placing reliance on the law laid down by the Allahabad High Court, in ***M/s Ahs Steels vs. Commissioner of State Taxes (Writ Tax No.1676 of 2024) and M/s Katyal Industries vs. State of U.P. and others (Neutral Citation No.2024:AHC:23697-DB)***, wherein the Allahabad High Court, after considering the decisions of the Apex Court, has observed as follows:

> "25. The twin issues which, therefore, arise for determination before this Court are:
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> (i) whether the service of notices exclusively through the GST portal, in the circumstances of the present case where registration of the Petitioner stood cancelled, can be regarded as valid service under Section 169 of the CGST Act; and
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> (ii) whether the impugned order suffers from violation of the statutory mandate under Section 75(4) requiring an opportunity of personal hearing. 26. Section 169 of the CGST Act prescribes multiple modes for valid service of notice, including (a) direct tender to the assessee, manager, authorized representative or

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family member, (b) registered or speed post or courier; (c) communication through email, (d) making it available on the common portal; and (e) by affixation or publication in a newspaper, if other modes are not practicable. The legislative intent is clear: while making a notice available on the common portal is one permissible method, it is not the exclusive method, and the Department is duty-bound to ensure effective service in a manner that actually communicates the notice to the assessee.

27. In the instant case, the Petitioner's registration stood cancelled since 2018, and therefore, the Petitioner was not enjoined to monitor the GST portal. The insistence by the Department that portal-based service alone sufficed amounts to imposing a duty on a nonregistered person, which the law does not contemplate. The decisions relied upon by the learned counsel for the Petitioner are directly on point.

28. In light of the above discussion, this Court is persuaded to hold that the Department, in the present case, failed to effect valid service of the notices. The statutory requirement of service under Section 169 has not been satisfied.

29. Section 75(4) of the CGST Act mandates that an opportunity of hearing shall be granted where a request is received in writing or where an adverse decision is contemplated. This provision embodies the principle of *audi alteram partem*, the right to be heard before an adverse order is passed. The Supreme Court in Radha Krishan Industries v. State of Himachal Pradesh, (2021) 6 SCC 771, while examining the scheme of GST law, underlined that fiscal adjudications must comply strictly with the principles of natural justice, and failure to afford a hearing renders the proceedings vulnerable.”

4. Ms. Pooja Banga, learned Standing Counsel for

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the Revenue does not dispute the factual position that Show Cause Notice was served upon the petitioner only by uploading the same on GST portal and by no other mode.

5. As the registration of the petitioner-company stood cancelled before issuance of Show Cause Notice, therefore, in our opinion, the law laid down in the aforestated order and judgments would squarely apply to the facts of instant case.

6. Accordingly, the adjudication order passed under Section 73 read with Section 50 of the UKGSCT/CGST Act, 2017 read with Section 20 of IGST Act, 2017 is quashed. Liberty is reserved in favour of the Revenue to proceed from the stage of Show Cause Notice. Needless to mention that, in case, the petitioner seeks personal hearing, it shall be provided with the same in terms of Section 75 (4) of the GST Act.

7. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 07.08.2026
KKS

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