2026:AHC-LKO:55274-DB

A.F.R

HIGH COURT OF JUDICATURE AT ALLAHABAD

LUCKNOW

WRIT TAX No. - 989 of 2026

M/s Nageen Traders and Molding India Pvt. Ltd.Thru. Director Abdul Rahim Khan

.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. State Tax Dept.. Govt. Lko. and 2 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Alok Kumar Gupta,
Counsel for Respondent(s)	:	C.S.C.,

Court No. - 3

HON'BLE SHEKHAR B. SARAF, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard learned counsel appearing on behalf of the petitioner as well as Shri Sanjay Sarin, learned Standing Counsel for the State-respondent(s) and perused the material available on record.

2. This is a writ petition under Article 226 of the Constitution of India, wherein the writ petitioner has sought for the following substantial reliefs:-

> *"(a) Issue a writ, order or direction in the nature of certiorari quashing the impugned show cause notice dated 19.11.2025 u/s 122(1)(ii) and DRC-01 dated 19.11.2025 contained in Annexure No. 1, issued by Respondent No. 3 as the same suffers from patent lack of jurisdiction as well as in contravention of section 161 of the GST Act, 2017.*
>
> *(b) Issue a writ, order or direction in the nature of certiorari quashing the consequential impugned penalty order u/s 122(1)(ii) and 122(1)(vii) dated 24.06.2026 and DRC-07 dated 24.06.2026 contained in Annexure No. 6, passed by Respondent No. 3 as the same suffers from patent lack of jurisdiction."*

3. Learned counsel appearing on behalf of the petitioner has argued that the show-cause notice dated 19.11.2025 for the financial year 2024-2025 suffers from a patent lack of jurisdiction and, consequently, the impugned order is also vitiated. He submits that the show-cause notice was issued by an officer who had no jurisdiction to issue the said notice.

4. He submits that the expression "proper officer" has not been defined under the UPGST Act, 2017 and, therefore, the officer who issued the show-cause notice lacked jurisdiction to do so. Furthermore, he submits that, noticing the lacunae with regard to the issuance of show-cause notices and the identification of the "proper officer", the Central Government issued Circular No. 254/11/2025-GST dated 27.10.2025, clarifying the "proper officer" competent to issue notices under various provisions of the Central Goods and Services Tax (CGST) Act, 2017 as well as the Integrated Goods and Services Tax (IGST) Act, 2017. The said Circular also deals with the issuance of show-cause notices under Section 74A and Section 122 of the CGST Act as well as the IGST Act.

5. Learned counsel has further argued, on the basis of the aforesaid Circular, that similar circulars are required to be issued by the respective State Governments; otherwise, show-cause notices issued under Section 122 of the CGST Act would be without jurisdiction in law. He has further submitted that the said Circular clearly prescribes the monetary limits and identifies the respective officers competent to issue show-cause notices. In the present case, since the penalty proposed under the show-cause notice was above Rs. 1 crore, the Additional Commissioner or Joint Commissioner of Central Tax ought to have issued the show-cause notice. In the present case, he has pointed out that the penalty proposed was above Rs. 1 crore; however, the notice has been issued by the Deputy Commissioner of State Tax.

6. Per contra, Shri Sanjay Sarin, learned Standing Counsel appearing on behalf of the State, has placed on record two Circulars dated 11.12.2018 and 10.05.2022 issued under the UPGST Act. The first Circular dated 11.12.2018 categorically provides that the proper officer for issuing a notice under Section 122 of the UPGST Act would be the proper officer as contemplated under Section 127 of the Act. The said Circular is clarificatory in nature and specifies that, in respect of proceedings under

Section 122, Section 127 would apply and the proper officer would have the power to issue a show-cause notice under Section 122 of the Act. The Circular further clarifies that, in view of the provisions of Section 127, there was no requirement to expressly use the expression "proper officer" in Section 122.

For ready reference, Section 127 of the CGST Act is quoted herein-below:-

> "***127. Power to impose penalty in certain cases-***
>
> *Where the proper officer is of the view that a person is liable to a penalty and he same is not covered under any proceedings under section 62 or section 63 or section 64 or section 73 or section 74 or section 129 or section 130, he may issue an order levying such penalty after giving a reasonable opportunity of being heard to such person."*

7. He further relied upon Circular No. GST/2018-19/1819072/962/Commercial Tax, dated 11.12.2018, and Circular No. GST/2022-23/83/State Tax, dated 10.05.2022, which indicate that, in cases involving businesses having a turnover exceeding Rs. 2.5 crores, the Deputy Commissioner shall have the power to exercise such jurisdiction.

8. Upon perusal of the aforesaid circulars, we are of the view that, with regard to the UPGST Act, the Deputy Commissioner has been vested with the power to issue a show-cause notice under Section 122, and that the pecuniary jurisdiction in cases involving an amount exceeding Rs. 2.5 crores would lie with the Deputy Commissioner.

9. It is further to be noted that the show-cause notice was issued in November, 2025, and the petitioner did not raise any objection with regard to jurisdiction before this Court at that stage. Instead, he appeared before the officer concerned and advanced his submissions on merits. Having suffered the impugned order dated 24.06.2026, the petitioner has now taken a volte-face and challenged the impugned order on the ground of lack of jurisdiction.

10. We are conscious of the settled legal position that a question of jurisdiction can be raised before a Constitutional Court at any stage. However, the writ jurisdiction exercised under Article 226 of the Constitution of India is discretionary in nature and is required to be exercised by this Court in a judicious manner.

11. In the present case, firstly, we are prima facie of the view that the authority which issued the show-cause notice was not lacking in jurisdiction. Secondly, we are of the view that the petitioner is hit by the doctrine of election and ought to be relegated to the statutory appellate remedy available under the Act.

12. In view of the aforesaid, we **dispose of** the writ petition by granting liberty to the petitioner to avail the statutory appellate remedy, in accordance with law.

13. Needless to say, the benefit of Section 14 of the Limitation Act, 1963, shall be available to the petitioner for the period during which the writ petition remained pending before this Court, subject to the petitioner satisfying the requirements of the said provision.

(Abdhesh Kumar Chaudhary,J.) (Shekhar B. Saraf,J.)

August 10, 2026
Praveen