



2025:AHC:161556-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 4370 of 2025

M/S Sai Computers

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Ajay Kumar Kashyap, Ravindra Kumar Rastogi, Vishakha Dubey
Counsel for Respondent(s)	:	C.S.C.

Court No. - 3

HON'BLE SHEKHAR B. SARAF, J.
HON'BLE PRAVEEN KUMAR GIRI, J.

1. This petition is directed against the order dated 28.08.2024 passed by respondent no. 2 for the period July 2017 to March 2018 (F.Y. 2019-20) whereby a demand to the tune of Rs. 155878.26/- has been raised against the petitioner.
2. The petitioner was issued a show-cause notice dated 17.12.2024 under Section 74 of Goods and Services Tax Act, 2017 (hereinafter referred to as 'the Act') in GST DRC-01. The notice, inter alia, called upon the petitioner as to why tax, penalty and interest to the tune of Rs.20,916.90/- be not imposed. Apparently, petitioner filed response to the said showcause notice on 27.05.2024. After nine days, the order dated 28.08.2024 raising the demand as indicated herein-above has been passed.
3. Learned counsel for the petitioner made submissions that action of the respondents in raising demand to the tune of Rs.155878.26/- which includes penalty to the tune of Rs.20000/- and interest to the tune of Rs.63737/- 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.20,916.90/- against tax, interest and penalty was sought to be recovered.

4. Learned Standing Counsel opposed the submissions made. 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-

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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, the petition deserves dismissal.

5. We have considered the submissions made by counsel for the parties and have perused the material available on record.

6. 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."

7. 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.

8. Admittedly, in the present case, the show-cause notice merely indicates the amount of Rs.20,916.90/- as representing the tax, interest and penalty and the demand qua the three components has been raised at Rs.155878.26/-, which is ex facie contrary to the provisions of Section 75(7) of the Act.

9. 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.

10. Consequently, the writ petition is allowed. Order dated 28.08.2024 (Annexure-4) is quashed and set aside and the matter is remanded back to the respondent no. 2 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.

September 11, 2025
K.K. Maurya