



2025:AHC:153353

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 513 of 2022

M/S Subhash Chand And Company

.....Petitioner(s)

Versus

The State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Vishwjit
Counsel for Respondent(s)	:	C.S.C.

WITH

WRIT TAX No. - 556 of 2022

M/S Subhash Chand And Company

.....Petitioner(s)

Versus

The State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Vishwjit
Counsel for Respondent(s)	:	C.S.C.

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

Heard Shri Vishwjit, learned counsel for the petitioner and learned ACSC for the State - respondents.

Since learned counsel for the parties submit that the issues involved in these writ petitions are similar, therefore, the same are being decided by the common order. With the consent of the parties, Writ Tax No. 513 of 2022 is taken as a leading case for deciding the controversy involved in these writ petitions.

Writ Tax No. 513 of 2022

The instant writ petition has been filed against the impugned order dated 22.07.2021 passed by the respondent no. 2 as well as the impugned order dated 15.02.2020 passed by the respondent no. 3.

WTAX No. 513 of 2022

2

Learned counsel for the petitioner submits that the petitioner sold outward supply of sugar in December, 2018 to M/s Shiv Trading Company, Delhi having GST Registration No. 07ACIPL7816P1ZX. Thereafter, proceedings under section 73 of the GST Act were initiated against the petitioner on the premise that inward supply has been taken by the petitioner by M/s Shiv Trading Company, Delhi, to which the petitioner submitted reply specifically stating that no inward supply was made, but sale was made to M/s Shiv Trading Company and the same has duly been shown, but without giving any weightage to the same, the impugned order dated 15.02.2020 has been passed by not only determining the tax, but also penalty of the equal amount was imposed and on the same date, the order was rectified. Against the said order, the petitioner preferred an appeal, which has been rejected vide impugned order dated 22.07.2021.

Learned counsel for the petitioner further submits that in the grounds of appeal, specific ground was taken by the petitioner that no purchases were made from M/s Shiv Trading Company, rather sale has been made by the petitioner, but while passing the impugned order, though the argument of the petitioner was noticed in paragraph no. 3 of the impugned order, but no weightage was given. He further submits that the penalty of equal amount cannot be imposed under section 73 of the GST Act, but the same can be levied upto 10%. He further submits that the argument pressed before the authorities concerned has not been considered by either of the authorities below.

Per contra, learned ACSC supports the impugned orders.

After hearing learned counsel for the parties, the Court has perused the record.

The record shows that the proceedings under section 73 of the GST Act were initiated against the petitioner on the premise that the petitioner has made inward supply to M/s Shiv Trading Company, Delhi, which firm was found non-existing. On the contrary, the petitioner has brought on record materials, i.e., tax invoice, e-way bill, bank statement and other relating documents,

that outward supply was made, to which tax has also been deposited, but without verifying the same the impugned orders have been passed.

WTAX No. 513 of 2022

3

The record further shows that the argument of the petitioner has been noticed by the first appellate authority in paragraph no. 3 of the appeal, but not a word has been whispered about the same and only reiterated the fact that inward supply has been taken by the petitioner and the firm M/s Shiv Trading Company was not found during the survey.

In view of the aforesaid facts & circumstances of the case, the impugned orders cannot be sustained in the eyes of law. The same are hereby quashed. The writ petitions succeed and are allowed.

(Piyush Agrawal,J.)

September 1, 2025

Amit Mishra