

Court No. - 10

Case :- WRIT TAX No. - 2285 of 2025

Petitioner :- M/S Sun Glass Works Private Limited

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

Counsel for Petitioner :- Vishwjit

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal,J.

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

The instant writ petition has been filed against the impugned order dated 25.09.2024 passed by the Additional Commissioner, Grade - 2 (Appeals), Mainpuri as well as the impugned order dated 10.05.2022 passed by the respondent no. 3.

Learned counsel for the petitioner submits that the petitioner is a Private Limited Company and carrying on the business of manufacturing and sales of glass bottles. He further submits that during the month of June, 2021, the petitioner purchased different types of chemicals (raw material) for manufacture of glass bottles from the registered dealers, who issued tax invoices. On 17.02.2022, a show cause notice was issued under section 74(1) of the GST Act on the ground that ITC has been availed by fraud or mis-statement, to which the petitioner submitted detailed reply along with the copies of tax invoice, bank statement, Form GSTR 2-A, etc. He further submits that the respondent no. 3, vide order dated 10.05.2022, demanded the tax and penalty, without providing a copy of the alleged survey report or opportunity of hearing to the petitioner. Aggrieved by the order dated 10.05.2022, the petitioner preferred appeal, which has been dismissed vide impugned order dated 25.09.2024.

Learned counsel for the petitioner further submits that in appeal, 18.09.2024 was the date fixed, on which date the judgement was reserved and thereafter, it was delivered on 25.09.2024, to which the petitioner was not put to notice. He further submits that there is no provision in the GST Act for reserving the judgement and delivering the judgement later on. In support of his submission, he has placed reliance on the judgement of this Court in ***M/s Wonder Enterprises Vs. Additional Commissioner, Grade - 2 & Another*** [Writ Tax No. 1150/2024, decided on 12.09.2024].

Per contra, learned ACSC supports the impugned orders.

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

In the personal affidavit filed by Additional Commissioner, Grade - 2 (Appeals),

Mainpuri, pursuant to the order of this Court, there is no mention of any provision or notification empowering the authority not passing the judgement on the date fixed, but on a later date, to which neither any notice was issued nor the petitioner was heard on the next date.

The issue in hand is squarely covered by the judgement of this Court in ***M/s Wonder Enterprises*** (supra).

In view of the peculiar facts & circumstances of the case as noted above, the impugned order dated 25.09.2024 passed by the Additional Commissioner, Grade - 2 (Appeals), Mainpuri cannot be sustained in the eyes of law. The matters require reconsideration.

For the said purpose, the impugned order dated 25.09.2024 passed by the Additional Commissioner, Grade - 2 (Appeals), Mainpuri is hereby quashed.

The writ petition is, accordingly, allowed.

The matter is remanded back to the Additional Commissioner, Grade - 2 (Appeals), Mainpuri, i.e., the respondent no. 2, for deciding the issue *de novo* after granting due opportunity of hearing to all the stake holders, expeditiously, preferably, within a period of three months from the date of production of a certified copy of this order.

Order Date :- 29.5.2025
Amit Mishra