2026:AHC:232151

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 4290 of 2026

M/S Digital Universe

.....Petitioner(s)

Versus

State of Uttar Pradesh and 2 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Harsh Vardhan Gupta
Counsel for Respondent(s)	:	C.S.C.

Court No. - 53

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Harsh Vardhan Gupta, learned counsel for the petitioner, and Sri Shashi Kant Mishra, learned Standing Counsel for the State / Revenue.

2. A joint statement has been made by learned counsels for the rival parties that they do not propose to file any affidavit, as such the petition be decided on the basis of the documents available on record.

3. With the consent of the parties, the petition is being decided at the fresh stage.

4. The case of the petitioner is that the petitioner happens to be a registered dealer under the GST Act, 2017, having GSTIN 09ABGPT7681E1Z8. According to the petitioner, with regard to certain irregularities so pointed out by the respondents, a show cause notice under Section 73 of the Act came to be issued on 23.02.2023, referable to the period July, 2017 to March, 2018, wherein the date by which the reply was to be submitted was shown to be 25.03.2023, and in the column pertaining to date of personal hearing, time of personal hearing, and the venue, where personal hearing would be held, this much was recited — "N.A.". Thereafter, another notice came to be issued, which is at page 40 of the paper book, whereby the petitioner was accorded time to submit reply to the show cause notice. Thereafter, Reminder No. 1 came to be issued on 06.06.2023, wherein the date, by which the reply was to be submitted was 12.06.2023, and in the column pertaining to date of personal hearing, time of personal hearing, venue where personal hearing was to be held, only "N.A." was mentioned, followed by Reminder No. 2 dated 29.08.2023, whereby the date by which the reply was to be submitted was shown to be 30.08.2023, and in the column pertaining to date of personal hearing, time of personal hearing, venue where personal hearing will be held, "N.A." was transcribed. Thereafter, an order came to be passed by the authority in original dated 01.09.2023 under Section 73 of the Act under the signature of the second

respondent, Additional Commissioner State Tax Sector 1, Varanasi, against which an appeal came to be preferred by the petitioner which was on 02.02.2024, which came to be rejected on 14.02.2024, on the ground of delay, by the 3rd respondent, Additional Commissioner Grade-II (Appeal), Varanasi, Sector-11, Varanasi.

5. Questioning both the orders, the present petition has been preferred.

6. Learned counsel for the writ petitioner argued that the impugned orders cannot be sustained for the simple reason that they are in violation of principles of natural justice. Submission is that though in the show cause notice dated 23.02.2023, in the column pertaining to the date by which reply was to be submitted, 25.03.2023 was mentioned, however, the date of hearing, time of personal hearing, venue where personal hearing was to be held, "N.A." was recited. Though there happened to be GST DRC-01 under Rule 142(1), a date was fixed as 25.03.2023, but in Reminder No. 1 dated 06.06.2023, the date of submission of reply was 12.06.2023, followed by Reminder No. 2 dated 29.08.2023, wherein the date of submission of reply was 30.08.2023, but the date of personal hearing, time of personal hearing and venue of personal hearing, "N.A." was mentioned. Further submission is that once the writ petitioner, being an assessee, is entitled to be heard personally, then non-affording of opportunity of personal hearing partakes the character of a situation, whereby there is violation of principles of natural justice, as it is a legal and vested right, which was deprived. In that regard, he further submits that the appeal had been preferred, though with delay, but has been rejected by a non-speaking order.

7. Countering the submissions so made by the learned counsel for the writ petitioner, Sri Mishra, learned Standing Counsel submits that whatever might be, it was always open for the writ petitioner to have appeared and asked for personal hearing, and the appeal had been preferred with delay.

8. I heard the submissions so made across the Bar and perused the record carefully.

9. Plainly and simply, the entire controversy boils down to a contingency wherein whether non-affording of opportunity of personal hearing would make the impugned orders vitiated or not. The answer to the same is simple, "Yes". Pertinently, once the show cause notice indicated the date, time and venue of personal hearing as "N.A.", then it partakes a character tantamounting to creating a situation whereby date, time and venue has to be fixed so as to enable the assessee to put forward his case. Here in the present case the incorporation of the word NA in front of the column Date, time and venue of personal hearing itself vitiates the order as it is a clear-cut classic case of violation of principles of natural justice.

10. Accordingly, the writ petition is being **disposed of** in the following terms:-

(A) The order dated 01.09.2023 passed under Section 73 of the Act by the Assistant Commissioner, State Tax, Sector-11, Varanasi, as well as the appellate order dated 14.02.2024 passed by the Additional Commissioner Grade-II (Appeal), Varanasi, Sector-11, Varanasi (B), Varanasi I: Uttar Pradesh, are hereby quashed.

(B) The matter stands remitted back to the original authority to pass a fresh order.

(Vikas Budhwar,J.)

November 6, 2026
N.S.Rathour

Digitally signed by :-
NIPENDRA SINGH RATHOUR
High Court of Judicature at Allahabad