**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT TAX No. - 1283 of 2025

M/S Gospell Press Thru. Partner Mr. Rajiv Goyal
.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. State Tax Lko And 3 Others
.....Respondent(s)

Counsel for Petitioner(s)	:	Sarvesh Kumar Tiwari, Prashant Kumar
Counsel for Respondent(s)	:	C.S.C.

Court No. - 3

**HON'BLE SHEKHAR B. SARAF, J.
HON'BLE PRASHANT KUMAR, J.**

1. Heard Shri Prashant Kumar along with Shri Sarvesh Kumar Tiwari and Ms. Fuhar Gupta, learned counsel for the petitioner as well as learned Standing Counsel for the State respondents.

2. This writ tax has been filed by the petitioner with following main prayer(s):

> *"i. To issue a writ, order or direction in the nature of certiorari quashing the impugned notice dated 17.09.2025 issued by Respondent No.4, U/s. 130 of the UPGST Act, 2017 being without jurisdiction, and in complete violation of the principles of natural justice. (Annexure No.1)*
>
> *ii. To issue a writ, order or direction in the nature of certiorari quashing the impugned order of seizure dated 06.09.2025 under Form GST INS-02 read with Rule 139(7) of the U.P. GST Rules, 2017 passed by Respondent No.4 (Annexure No.2).*
>
> *iii. Issue a writ, order, or direction in the nature of Mandamus, directing Respondent No. 4 to refund the amounts of Rs. 91,74,527/- (Rupees Ninety-One Lakh Seventy-Four Thousand Five Hundred Twenty-Seven Only) and Rs.1,24,00,000/- (Rupees One Crore Twenty-Four Lakh Only), which have been illegally and without jurisdiction recovered from the Petitioner purportedly under Section 74A(9) of the U.P. GST Act, 2017."*

3. Learned counsel for the petitioner relying on the following judgements (i) ***M/s Metenere Ltd. v. Union of India and another****; Writ Tax No.360 of 2020*, (ii) ***M/s Maa Mahamaya Alloys Pvt. Ltd. v. State of U.P. and***

Others*; Writ Tax No.31 of 2021*, (iii) ***M/s Dayal Product v. Additional Commissioner Grade-2 and another****; Writ Tax No.1319 of 2024*, (iv) ***Additional Commissioner Grade-2 and another v. M/s Dayal Product****; SLP(C) Diary No.44119 of 2025*, (v) ***Additional Commissioner Grade-2 and another v. M/s Shree Om Steels****; SLP (C) Diary No.1968 of 2025* (vi) ***Additional Commissioner Grade-2 (Appeal) and another v. S/s Dinesh Kumar Pradeep Kumar****; SLP (C) Diary No.5879 of 2025* submits that notice under Section 130 of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as 'Act, 2017') cannot be issued for alleged violation of Section 35 of the Act, 2017.

5. He further relies on the judgement passed in the case of ***M/s Maa Mahamaya Alloys Pvt. Ltd*** (supra) to submit that the notice under Section 130 of the Act, 2017 can only be issued, once liability to pay tax is determined by the Department under Section 73 or 74 of the Act, 2017.

6. Thirdly, he submits that the present writ petition is maintainable against the show cause notice as the same has been issued without jurisdiction. He further submits that the judgement of Hon'ble Supreme Court in ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others;*** *(1998) 8 SCC 1* would apply in the present case and the petitioner is covered by the exceptions as show cause notice is without jurisdiction.

7. He also relies upon the judgements passed in ***Siemens Ltd v. State of Maharashtra and others;*** *(2006) 12 SCC 33* and ***Hcl Infotech Ltd v. Commissioner, Commercial Tax and another;*** *Writ Tax No.1396 of 2024* to buttress his arguments.

8. Learned counsel for the respondents has primarily argued on the point of maintainability of the writ tax at the show cause notice stage.

9. However, we are of the view that since the law is no longer *res integra* with regard to the proceedings to be initiated under Section 130 of the Act, 2017 without determination of tax under Section 73/74 of the Act, 2017, the present show cause notice issued under Section 122 read with Section 130 of the Act, 2017 is without jurisdiction.

10. Having held that the notice that has been issued without jurisdiction, we are bound to intervene in the said matter and decide the issue of jurisdiction.

11. Upon perusal of the judgements relied upon by learned counsel for the petitioner, we unequivocally come to the conclusion that the present notice issued under Section 130 of the Act, 2017 cannot be issued in alleged violation of the Section 35 of the Act, 2017 and the proceedings initiated by the department are accordingly without any jurisdiction and law.

12. In light of the settled position, we quash and set aside the impugned order dated September, 17, 2025. The department shall be at liberty to proceed in accordance with law against the petitioner by issuing show cause notices under relevant provisions of the Act, 2017. Pursuant to the order passed by this Court, the impugned seizure order dated September 6, 2025 is also quashed and set aside. With regard to the prayer of refund of amount of Rs.2,15,74,527/- (Rupees Two Crore Fifteen Lakh Seventy Four Thousand Five Hundred Twenty-Seven Only), the petitioner is at liberty to proceed in accordance with law.

13. With the above observations, instant writ tax is **disposed of**.

(Prashant Kumar,J.) **(Shekhar B. Saraf,J.)**

November 13, 2025
Anupam S/-