2025:AHC:205326

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 15409 of 2025

Malikhan Singh

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Prashant Mishra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 34

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Prashant Mishra, learned counsel for the petitioner and Sri Piyush Shukla, learned Standing Counsel, who appears for State-respondents.

2. This court entertained this petition on 29.10.2025 while directing the learned Standing Counsel to obtain instructions and thereafter the matter was fixed for today. Instructions have been supplied by Sri Piyush Shukla, learned Standing Counsel, submits that he is well equipped with the instructions and the instructions are self-sufficient for disposal of the writ petition and he does not propose to file any further affidavit and the petition be decided on the basis of the documents available on record, thus with the consent of the parties, writ petition is being decided at the fresh stage.

3. The case of the writ petitioner is that while the was posted as a State Tax Officer in Sector-2, State Tax, Etawah on 19.01.2023, he was placed under suspension by virtue of the order dated 23.08.2025 passed by the Commissioner, State Tax, Uttar Pradesh, Lucknow in exercise of the powers as conferred under U.P. Government Servant (Discipline and Appeal) Rules, 1999.

4. Questioning the suspension order, the present writ petition has been preferred.

5. Learned counsel for the writ petitioner has sought to argue that the writ petitioner has not committed any misconduct so as to suspend him under the provisions contained under U.P. Government Servant

(Discipline and Appeal) Rules, 1999. Submission is that one M/s B.K. Traders at 5201 Leela Road, Ekta Colony, Etawah had filed an application on 13.10.2024 for GST registration and as per the circular dated 14.11.2018, the papers for GST are to be processed by the authorities, however, post lapsing of three days, there would be deemed registration. Contention of the learned counsel for the writ petitioner is that the writ petitioner on 03.12.2024 while posted as Sale Tax Officer conducted physical verification and tendered his report on 03.12.2024 itself before the authority mentioning therein that the firm in question is bogus and despite the fact that the said report stood transmitted to the Assistant Commissioner, the show cause notice came to be issued on 05.12.2024 show causing the said firm as to why GST registration of the firm may not be cancelled. However, the firm in question on 13.01.2025 was claimed ITC pursuant whereto as per the allegations of Rs. 3,01,15,690/- came to be defrauded from the State exchequer. Learned counsel for the writ petitioner has drawn attention of the Court towards the circular dated 14.11.2018 so as to contend that the said circular also provides for contingency wherein deemed registration have been accorded to the firm post lapsing of three days and in that post conduction of inquiry by the State Tax Officer, as the case may be, upload the report in the common portal within fifteen days upon the instructions of the Assistant Commissioner. He thus submits that post deemed approval of the GST registration in favour of the said firm after laps of three days from 13.10.2024, the writ petitioner had submitted the report on 03.12.2024, however, despite the fact that the adverse report had been submitted by the writ petitioner as a State Tax Officer post investigation before the Assistant Commissioner, the Assistant Commissioner on 05.12.2024 proceeded to issue a show cause notice and did not suspend the GST registration pursuant whereto on 13.01.2025, ITC was claimed by the firm which was not liable to be accorded to it.

6. Argument is that whatever might be, the delay, if any, cannot be said to be fatal so as to place the writ petitioner under suspension, particularly, when on the date when the ITC was fraudulently claimed by the assessee, there already happened to be an adverse report submitted by the writ petitioner and the same was acted upon while

issuing the show cause notice dated 05.12.2024, but the said show cause notice did not contain any condition relatable to the suspension of the GST registration. He submits that on the lapse of the part of the Assistant Commissioner, who is the competent authority to take action, despite having full knowledge of the adverse report submitted by the officer, no case for suspension is made out and no major penalty can be inflicted in that regard.

7. Learned Standing Counsel submits whatever might be the writ petitioner as a State Tax Officer as per the circular dated 14-11-2018 was required to submit a report within fifteen days post deemed registration of the firm in question. However, the writ petitioner took more time. He however could not dispute the fact that the adverse report stood submitted by the writ petitioner against the said firm on 03-12-2024 and it was acted upon on 05-12-2024 by the Assistant Commissioner while issuing the show cause notice. Though the show cause notice did not suspend the GST licence but only show cause the firm and the ITC were claimed on 13-01-2025. He submits that though the suspension order be set aside but the inquiry be directed to be conducted.

8. Having heard the submissions so made and bearing in mind the overall facts, including the fact that the writ petitioner submitted an adverse report against the alleged firm post-investigation on 03-12-2024, which was taken into account and acted upon while issuing the show cause notice by the Assistant Commissioner on 05-12-2024 and the GST was claimed on 13-01-2025, thus, prima facie the Court finds substance in the argument raised by the learned counsel for the writ petitioner. Thus, the suspension order cannot be sustained. Accordingly, the writ petition stands disposed of in the following terms:

(a) The suspension order dated 23.08.2025 passed by the Commissioner, State Tax, Uttar Pradesh, Lucknow is set aside.

(b) Setting aside the suspension order dated 23.08.2025 would not preclude the respondents to conduct departmental inquiry and to conclude the same within a period of four months from the date of presentation of the certified copy of the order.

9. Learned counsel for the writ petitioner as per the instructions received from his client submits that the writ petitioner shall fully cooperate.

10. With the aforesaid observation, the writ petition is **disposed off**.

11. Instructions have been filed today is taken on record and marked as Appendix-A.

November 18, 2025
A. Prajapati

(Vikas Budhwar,J.)