



2026:AHC:1489

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 18935 of 2025

Bal Chand

.....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. - 33

HON'BLE VIKAS BUDHWAR, J.

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

2. This court entertained this petition on 16.12.2025 while directing the learned Standing Counsel to obtain instructions and thereafter the matter was fixed for today. Instructions have been supplied by Sri Vijay Lal, 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 he joined the post of State Tax Officer in Sector-2, State Tax, Gorakhpur on 13.01.2023 and he was promoted from the ministerial staff (Administrative Officer) on the date of the passing of the suspension order, his present posting as State Tax Officer in Sector-2, Gorakhpur and he has been transferred to Tax Audit Zone-B, Gorakhpur where he joined the post on 05.07.2025 while the writ petitioner was posted as State Tax Officer, the impugned suspension order came to be passed on 13.11.2025 whereby the writ petitioner has been placed under suspension on the ground that one firm by the name and style 'M/s Tiwari Enterprises' situate at Lotus Valley Restort, Gorakhpur had sought GST registration on 18.03.2024 and deemed approval was accorded on 18.04.2024. The writ petitioner conducted physical inspection and found that the said entity was not in-existent and tendered his report before the Assistant Commissioner on 21.06.2024 based upon the adverse report, the

Assistant Commissioner on 01.07.2024 issued a show cause notice but he did not suspend the GST registration on 20.09.2024, the said firm fraudulently claimed ITC and on 24.10.2024, the GST registration was cancelled.

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

5. This Court entertained the writ petition on 16.12.2025 while passing the following orders:

"Contention of the learned counsel for the writ petitioner is that the writ petitioner happens to be State Tax Officer one of the firm by the name and style of Tiwari Enterprises had applied for GST registration on 18.03.2024 and deemed approval was accorded on 18.04.2024 and on 21.06.2024, the writ petitioner conducted inspection and after providing the report, the Assistant Commissioner on 01.07.2024 issued a show cause notice only and did not suspend the GST registration and on 20.09.2024 fraudulently, the said firm claimed ITC and on 24.10.2024, the Registration was cancelled. Submission of the learned counsel for the writ petitioner that once the writ petitioner had conducted inspection and submitted a negative report against the assessee on 21.06.2024 then it was the Assistant Commissioner who was under an obligation to act thereupon while not only issuing a show cause notice but also suspending the GST licence, however, the same was not done on account whereof ITC was claimed.

Shri Manish Kumar, learned Standing Counsel seeks time to obtain instructions.

Put up this case on 06.01.2026 as fresh."

6. Post passing of the order, today instructions have been forwarded under the signature of Assistant Commissioner Sales Tax/ State Tax Headquarter, Lucknow dated 17.12.2025 which is taken on record and marked as Appendix A.

7. Learned counsel for the writ petitioner has submitted that the order impugned cannot be sustained for the simple reason that there has been no misconduct committed by the writ petitioner. Submission is that the policies and the circulars in fact contemplate deemed approval of GST licence. However, the per-requisite condition post deemed approval is that the competent authority is to conduct physical inspection and to tender his report though there might be in delay for conduction of the physical inspection and the report came to be submitted on 21.06.2024 and a show cause notice

based upon the said adverse report was issued by the Assistant Commissioner on 01.07.2024 but the Assistant Commissioner, for the reasons best known to him, did not suspend the GST licence and only issued show cause notice giving an opportunity to the assessee to claim fraudulently ITC and the GST registration stood cancelled later. Contention is that once the adverse report was within the knowledge of the Assistant Commissioner then he ought to have suspended the GST licence and once the failure was on his part then the writ petitioner cannot be held to be guilty of commission of misconduct relating to duping of the State exchequer. He further submits that the writ petitioner is not shy to face the disciplinary proceedings, however, he submits that the suspension order be set aside.

8. Learned Standing Counsel on the other hand submits that there happens to be circulars in the shape of the circular dated 23.06.2023 and 14.11.2018, according to which, post deemed approval, the physical inspection is to be conducted within a period of 15 days. However the duties cast upon Assistant Commissioner (Proper Officer). He submits that on account of the delay in conducting the physical inspection, the said situation arose, however, he could not dispute the fact that the adverse report came to be submitted on 21.06.2024 before the Assistant Commissioner on 01.07.2024, the show cause notice was issued though the Assistant Commissioner did not suspend the GST licence and finally the cancellation order came to be passed on 24.10.2024 and in the meantime on 20.09.2024, ITC was claimed by the assessee, according to him, the suspension order be set aside but the inquiry be directed to be conducted.

9. I have heard learned counsel for the parties and gone through the records carefully.

10. Apparently, the allegations against the writ petitioner is regarding the claiming of fraudulent claim set up by the firm/ assessee while claiming ITC to the crores of rupees. Importantly, on 18.03.2024, an application came to be filed by the assessee for GST registration which was accorded deemed approval on 18.04.2024 and physical inspection was conducted and report was submitted by the writ petitioner on 21.06.2024 and based upon the said report, on 01.07.2024 show cause notice was issued by the Assistant Commissioner (Proper Officer) and on 20.09.2024 the ITC was claimed and on 24.10.2024, the GST registration was cancelled. Be that as it may be, since a report had already been submitted but the writ petitioner on

21.06.2024, a show cause notice was issued and ITC was claimed fraudulently on 20.09.2024, thus, *prima facie*, the Court is of the opinion that the suspension need not be continued.

11. Accordingly, the writ petition is being decided in the following manner:

(a). The suspension order dated 30.11.2025 is set aside.

(b). Quashing of the suspension order would not preclude the respondents from conducting disciplinary proceedings and concluding the same within a period of three months from today.

12. The counsel for the writ petitioner as per the instructions received from his client submits that the writ petitioner shall participate in the inquiry proceedings thus the inquiry officer shall conclude the proceedings expeditiously.

13. In case, the writ petitioner does not participate in the proceedings and take unnecessary adjournments then the authority while recording the finding should be concluded the proceedings within a period of three months thereafter.

14. The writ petitioner shall be paid subsistence allowances from the date of the passing of the order till setting aside of the same i.e. today subject to fulfillment of statutory provisions.

15. Any observations made in the present order may not be construed to be an expression on merits.

16. Accordingly, the writ petition stands **disposed of**.

January 6, 2026

A. Prajapati

(Vikas Budhwar,J.)