



2026:AHC:36125

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 1560 of 2026

Avinash Sagar

.....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 writ petitioner and Sri Rahul Malviya, learned Standing Counsel for the State.
2. This Court entertained the writ petition on 04.01.2026 while seeking instructions from the learned Standing Counsel.
3. Today, instructions have been produced before this Court under the signatures of State Tax Officer, Block-3, Gorakhpur dated 17.02.2026, which are taken on record and marked as Appendix 'A'.
4. Sri Rahul Malviya, learned Standing Counsel has made a statement that he is well equipped with the instructions and is in a position to argue the case. He does not propose to file any counter affidavit and he further submits that the writ petition be decided on the basis of the documents available on record.
5. With the consent of the parties, the writ petition is being decided at the fresh stage.
6. The case of the writ petitioner is that he joined as Sales Tax Officer in Mobile Squad Gonda on 01.07.2022, thereafter he was transferred to Gorakhpur as State Tax Officer, Block-3 at Gorakhpur. While the writ petitioner was posted as Sales Tax Officer, Block-3 Gorakhpur, an order came to be passed on 04.08.2025 by the Commissioner, State Tax, Uttar Pradesh, Lucknow placing the writ petitioner under suspension in contemplation of inquiry.
7. Questioning the same, the present writ petition has been preferred.

8. This Court entertained the writ petition on 04.02.2026, while passing the following order:-

"Contention of the learned counsel for the writ petitioner is that he is the State Tax Officer with respect to grant of registration for GST, an application came to be preferred on 12.02.2024 and deemed approval was accorded on 12.01.2025 and on 15.02.2025 the writ petitioner conducted physical verification and tendered an adverse report against the said assessee, on 18.02.2025 ITC was fraudulently claimed by the firm. On 09.07.2025 show cause notice came to be issued by the Assistant Commissioner and on 24.07.2025 the GST registration was cancelled.

Learned counsel for the writ petitioner submits that once the writ petitioner had conducted the physical inspection and tendered his report on 15.02.2025 then he cannot be said to be responsible in any manner with regard to committing misconduct, particularly, the reports stood submitted before the Assistant Commissioner and the show cause notice came to be issued on 09.07.2025 and the registration was cancelled on 24.07.2025 and prior to it on 18.02.2025, the ITC was claimed.

Shri Rahul Malviya, learned Standing Counsel seeks time to obtain instructions.

Put up this case on 10.02.2026 as fresh."

9. Learned counsel for the writ petitioner has sought to argue that the impugned suspension order cannot be sustained, even for a single moment. Submission is that while the writ petitioner was posted as State Tax Officer, Block-3, Gorakhpur, one Dinesh Enterprises situated at 56, Ashok Nagar Colony, near Shani Dev Mandir, North Humayunpur, Gorakhpur, which is dealing with iron, steel and ingots, preferred an application for GST registration on 12.12.2024. Deemed approval was accorded on 12.01.2025 and the writ petitioner being the State Tax Officer, as per the duties so entrusted upon him,, conducted physical verification and submitted an adverse report on 15.02.2025 against the said assessee that the said Firm was bogus. However, the firm Dinesh Enterprises fraudulently claimed input tax credit (ITC) on 18.02.2025 and thereafter on 09.07.2025, a show cause notice came to be issued by the Assistant Commissioner and on 24.07.2025, the GST Registration was cancelled. According to the writ petitioner, there cannot be any misconduct so as to be so grave o place the writ petitioner under suspension, particularly when the writ petitioner post deemed approval of the GST registration conducted spot inspection and submitted a physical verification report before the Assistant Commissioner on 15.02.2025 and on the receipt of the said report, it was for the Assistant Commissioner to have issued a show cause notice while suspending the GST Licence. However, the show cause notice came to be issued on 09.07.2025 for the very first time

and prior to it on 18.02.2025, fraudulently ITC was claimed by the assessee and ultimately, on 24.07.2025 the GST registration was cancelled. As per the learned counsel for the writ petitioner, merely because there happened to be a delay in conduction of physical verification would not be relevant in order to attribute misconduct for placing the writ petitioner under suspension in view of the fact that the ITC was fraudulently claimed by the assessee post submission of the adverse report by the writ petitioner on 15.02.2025 before the Assistant Commissioner and for the delay in issuing the show cause notice, the writ petitioner cannot be held to be guilty.

10. Sri Rahul Malviya, learned Standing Counsel while countering the submissions so made by learned counsel for the writ petitioner submits that whatever might be it was for the writ petitioner to have conducted physical verification, as per the timeline so specified in the Circulars issued from time to time, however, he could not dispute the fact that the adverse report came to be submitted by the writ petitioner on 15.02.2025 and the ITC was claimed on 18.02.2025 and show cause notice was issued on 09.07.2025 and the GST registration came to be cancelled on 24.07.2025.

11. I have heard the submissions so made across the Bar and perused the record.

12. The facts are not in issue. It is not in issue that the writ petitioner happens to be working at that very relevant point of time as State Tax Officer and GST Registration came to be applied by the assessee on 12.12.2024, which was accorded deemed registration on 12.01.2025. The writ petitioner conducted physical inspection and tendered his report on 15.02.2025, which was placed on the table of the Assistant Commissioner on the same day and on 18.02.2025, the alleged bogus firm claimed ITC on 18.02.2025 and a show cause notice came to be issued by the Assistant Commissioner on 09.07.2025 and the GST registration was cancelled on 24.07.2025.

13. Prima facie, in the opinion of the Court, the chronology and the sequence of the dates and events show that the ITC was claimed on 18.02.2025 fraudulently, post submission of the adverse report by the writ petitioner on 15.02.2025.

14. Be that as it may be, bearing in mind the over all fact situation, and the nature of the allegation, prima facie the suspension is not to be continued,

since the same had been passed on 04.08.2025. Since charge sheet has already been issued on 01.08.2025, thus now the Disciplinary Authority to get conducted the departmental proceedings. Accordingly, the writ petition is being decided in following term:-

(a) The suspension order dated 04.08.2025 passed by the Commissioner, State Tax, Uttar Pradesh, Lucknow is set aside.

(b) The departmental proceedings be concluded within a period of three months from the date of production of the certified copy of the order.

(c) Since the order has been passed today, in the presence of the counsel for the writ petitioner as well as Sri Rahul Malviya, learned Standing Counsel, thus they are to produce the order passed today before the respondent no.2, Commissioner, State Tax, U.P. Lucknow by 27.02.2026.

(d) The inquiry proceedings shall be concluded within a period of three months from 27.02.2026.

(e) Sri Prashant Mishra, learned counsel for the writ petitioner, as per the instructions so obtained by him submits that the writ petitioner shall participate in the disciplinary proceeding and shall not take any unnecessary adjournments.

(f). Accordingly, the disciplinary authority shall conclude the departmental proceedings without granting unnecessary adjournments and in case adjournments are sought, the same shall be granted on exceptional circumstances not beyond seven days at a stretch.

(g) The writ petitioner shall be paid the subsistence allowance from the date of passing of the suspension order dated 04.08.2025 till the passing of the order today subject to the compliance of the Rules.

15. With the aforesaid observations, the writ petition stands **disposed of**.

February 18, 2026

N.S.Rathour

(Vikas Budhwar,J.)