

**Court No. - 64**

**Case :-** WRIT TAX No. - 2869 of 2025

**Petitioner :-** F K Fancy Zari Art

**Respondent :-** Union Of India And 4 Others

**Counsel for Petitioner :-** Utkarsh Malviya

**Counsel for Respondent :-** A.S.G.I.,C.S.C.,Saumitra Singh

**Hon'ble Jayant Banerji,J.**

**Hon'ble Madan Pal Singh,J.**

1. Heard learned counsel for the petitioner, learned counsel for respondent-Union of India and the learned Standing Counsel for the State-respondents.

2. This writ petition has been filed challenging the Adjudication Order bearing Reference No. ZD090824097011B dated 13th August, 2024 along with DRC-07 passed by Commercial Tax Officer, Sector-5, Bareilly, U.P. under Section 73 of CGST/UPGST Act.

3. Contention of the learned counsel for the petitioner is that the petitioner could not file reply to the notice sent by the respondent-department, thus, the impugned order has been passed. It is stated that the impugned order dated 13th August, 2024, which is appended at page-39 of the writ petition, simply reproduces the notice issued under Section 73 (1) of UPGST Act, which has been brought on record at page-43 of the writ petition. It is further stated that the Adjudicating Authority is required to apply its mind to the contents of the notice issued by the respondent-department and cannot mechanically rely upon the notice and quote that notice in the order impugned. Order impugned itself shows no application of mind.

4. Learned counsel for respondent-Union of India and the learned Standing Counsel for the State-respondents have opposed the writ petition by submitting that the notice was easily accessible to the petitioner in view of its being uploaded on the department's portal as per Section 169 of the UPGST Act and as such, the petitioner cannot deny receipt of the same. It is further stated that despite the notice, the petitioner chose not to file any reply to the same. Therefore, the Adjudicating Authority was justified in passing the impugned order.

5. We have considered the submissions made by the learned counsel for the parties and perused the material available on record.

6. A bare look at the order impugned dated 13th August, 2024 reveals that the same only makes reference to the notice, the fact that they have not been responded to, and a demand has been raised.

7. The manner of passing of order dated 13th August, 2024 falls foul of the requirements of Section 75(6) of the Act, which requires that 'the proper officer, in his order shall set out the relevant facts and the basis of his decision. The statutory requirements for passing an order by setting out relevant facts and basis for the decision are totally missing from the order dated 13th August, 2024. Even if no response was filed to the notice issued under Section 73 of the Act, it was incumbent on respondent no.2 to pass an order in compliance of the provisions of Section 75(6) of the Act, as a final order should be self contained and merely making reference to the previous notice while passing the said order does not suffice for making it a self contained order.

8. Consequently, the petition is **allowed**. The order dated 13th August, 2024 (Annexure-1 to the writ petition) is quashed and set aside. The matter is remanded back to respondent no.5/Commercial Tax Officer, Sector-5, Bareilly, U.P. to provide an opportunity of filing response to the show cause notice issued under Section 73 of the Act to the petitioner, which response shall be filed within a period of four weeks from today and thereafter, after providing opportunity of hearing, a fresh order in accordance with law be passed.

(Madan Pal Singh, J.)      (Jayant Banerji, J.)

**Order Date :- 25.6.2025**

Sushil/-