



2026:AHC-LKO:9710

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT TAX No. - 174 of 2026

M/S Polestar Software Pvt. Ltd. Thru. Director
Gaurav Nigam

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Commercial
Tax Deptt. Lko. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Mukesh Kumar Tewari
Counsel for Respondent(s)	:	C.S.C.

Court No. - 6

HON'BLE JASPREET SINGH, J.

Heard learned counsel for the petitioner as well as the learned Additional Chief Standing Counsel for the State-respondents.

With the consent of learned counsel for the parties, the present petition is disposed of at the admission stage itself.

Sri Vikram Soni, learned Additional Chief Standing Counsel for the State-respondents at the outset pointed out that the instant writ petition has been filed with much delay and the laches have not been adequately explained.

It is urged that the order under challenge is dated 30th September, 2024 and almost after one and a half year, the petitioner has approached this Court, thus, the instant petition is liable to be dismissed on the ground of un-explained laches.

Sri Mukesh Kumar Tiwari, learned counsel for the petitioner refuting the aforesaid submissions has pointed out that the petitioner has indicated the cause in paragraph no. 25 and 26 of the instant petition.

It is urged that the proceedings and the impugned orders are patently without jurisdiction for the reason that initially a show cause notice (DRC-01A) was issued to the petitioner for the financial year 2017-18, a copy of which has been brought on record as Annexure No. 4.

It is urged that the petitioner could not file a response to the said show cause notice, however, the fact remains that upon the same set of facts and for the same financial year 2017-18, the respondent-Authorities again issued a show cause notice dated 30th September, 2023 wherein admittedly a reference to the earlier show cause notice dated 14.10.2022 was also made.

It is further pointed out that in the subsequent notice dated 30th September, 2023, the reply was to be submitted by 30th October, 2023 whereas the date of personal hearing was mentioned as 10.10.2023 i.e. prior to the date of submission of reply.

It is further urged that the petitioner had furnished his reply on 30th December, 2023 and in furtherance thereof an order had been passed, a copy of which has been brought on record as Annexure No. 7 wherein the reply as submitted by the petitioner was accepted and it was clearly noticed that there was no demand against the petitioner.

It is further urged that once the said order dated 30th December, 2023 had been passed, it was not open for the respondent-Authorities to have proceeded with the matter on the basis of first DRC-01A which was dated 14.10.2022.

It is urged that for the aforesaid reasons, the orders impugned are bad and no recovery could have been made, apart from the fact that it also suffered from non-application of judicial mind.

Considering the ground shown in paragraph nos. 25 and 26 of the petition, which may not be very weighing for explaining the laches but the fact remains that from the perusal of the material available on record as well as the orders passed by the respondent-authorities, it could not be disputed that once the order dated 30th December, 2023 had been passed accepting the response of the petitioner and recording a finding that there was no arrears or incidence of tax payable by the petitioner, the order impugned rejecting the contention of the petitioner on 31.12.2023 is bad.

Moreover, the petitioner had filed an appeal which has also been rejected but the fact remains that there is no adjudication or consideration of the

fact that the Assessing Authority had already passed an order on 30th December, 2023, noticing that there is no outstanding against the petitioner as the response filed by the him was found to be satisfactory.

In this view of the matter, this Court is of the opinion that no gainful purpose will be served in keeping the present petition pending or relegating the petitioner to the alternate remedy or on the ground of ill-explained laches, as admittedly the order impugned could not subsist in light of the order passed by the Authorities on 30th December, 2023.

In this view of the matter, this Court is of the opinion that the order impugned dated 31.12.2023 is apparently unsustainable and the ground upon which the appeal has been dismissed is also not clearly satisfactory.

In the given facts and circumstances, the impugned orders dated 31.12.2023 and 30.09.2024 cannot be sustained and are accordingly set aside. The writ petition shall stands allowed. There shall be no order as to costs.

(Jaspreet Singh,J.)

February 9, 2026

Asheesh