



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 819 of 2026

M/S Dell International Services India Private
Limited

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Petitioner(s) : Nishant Mishra, Vedika Nath
Counsel for Respondent(s) : C.S.C.

Court No. - 3

**HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE INDRAJEET SHUKLA, J.**

1. Submission is, though the adjudication order is appealable, at present, the order suffers from incurable defect inasmuch as despite all replies having been furnished, those have been summarily rejected without assigning appropriate reason. Second, clearly the adjudicating authority had entertained doubts upon considering written replies submitted by the petitioner. Instead of fixing any date for personal hearing and seeking clarification thereto, the said authority has hurriedly passed the adjudication order on the strength of a telephonic communication between the said authority and the petitioner. That procedure is wholly irregular and introduces vagueness as to the true nature of proceedings conducted. Other submissions have also been advanced.

2. Learned Standing Counsel prays for and is granted a week's time to obtain written instructions.

3. Put up as fresh on 12.02.2026.

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

February 3, 2026

Abhilash



2026:AHC:31473-DB

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1. Heard Sri Nishant Mishra, learned counsel for the petitioner-assessee and Sri Arvind Kumar Mishra, learned counsel for the revenue.
2. Challenge has been raised to the order dated 30.12.2025 passed by respondent no.2 under Section 73 of the UPGST Act, 2017 (hereinafter referred to as the 'Act').
3. Primarily, submissions have been advanced that the rules of natural justice have been violated. It is admitted to the petitioner that it had received show-cause notice dated 28.07.2025 under Section 61 of the Act, fixing 27.08.2025 as the date to file reply. On that date it had filed reply and appeared in the proceeding on 26.08.2025. It is further admitted that a second notice was issued on 27.09.2025 under Section 73 of the Act, fixing 27.10.2025 as the date to file reply and 30.10.2025 for personal hearing, the petitioner had complied with that notice as well. Thereafter, the petitioner was issued notice for the date 22.12.2025 on which date its authorised representative appeared and furnished evidence in support of the explanation already submitted. No other or further proceeding took place. On that date, no query was raised by the adjudicating authority and no explanation was

furnished. Thereafter, no other or further date was fixed. Suddenly, on 30.12.2025 the impugned order came to be passed, to confirm the proposed demand of tax etc. on grounds different in addition to the grounds disclosed to the petitioner in the show-cause notice dated 27.09.2025. Thus, the ground that has found favour of the adjudicating authority to reject reconciliation of the alleged discrepancy in the e-way bills and GSTR-3B of the petitioner has been rejected for reason of the same being not reconciled with GSTR-9C. Though the petitioner has an explanation with respect to that ground as well, neither it may have been permissible for the adjudicating authority to rely on that ground in view of the provisions of Section 75(7) of the Act nor in any case it may have become open to the adjudicating authority to consider that ground in absence of any prior show-cause notice issued to the petitioner and further in absence of any discussion being invited by the adjudicating authority on 22.12.2025.

4. Second, it has been objected that the petitioner had offered detailed reconciliation with respect to that discrepancy alleged in the e-way bills and GSTR-3B. The order-sheet entry produced together with the written instructions received by the learned Standing Counsel (marked as 'X' and retained on record) support the said submission. For ready reference, the said order-sheet entry reads as below :

“फर्म की ओर से अधिकृत प्रतिनिधि श्री सौरभ केड़िया उपस्थित हुये तथा नोटिस से सम्बन्धित साक्ष्य दाखिल किया।”

5. Absolutely no consideration has been offered to the evidence adduced by the petitioner. Therefore, it has to be assumed that the said explanation had found favour with the adjudicating authority. In absence of any other reason given, that explanation may not be disbelieved.

6. Also, strong objection has been raised as to the manner in which proceeding has been conducted and concluded inasmuch as the impugned order itself records that on certain doubts arisen with the adjudicating authority about the explanation furnished by the petitioner, he spoke to the authorised representative of the petitioner on telephone/'doorbhash'. That procedure adopted by the adjudicating is impermissible in law. It introduces unacceptable informality and therefore procedural subjectivity and dilutes transparency of procedure, in the otherwise formal *quasi judicial* proceeding, without sanction of the law.

7. Other objections have also been raised with respect to alleged discrepancy in the value of credit note and the discrepancy in ITC as disclosed in Form - 3B and 2A.

8. Having heard learned counsel for the parties and having perused the record, at first, learned Standing Counsel had raised a preliminary objection that the petitioner had alternative remedy of appeal available. At the same time, on being confronted with the submissions with respect to introduction of new ground to confirm the demand and the unacceptable irregularity in the proceeding - of the same being concluded on the strength of alleged telephonic conversation, it has been further submitted that the adjudication order may have been passed on 30.12.2025 i.e. at the fag end of the limitation. Therefore, the proper opportunity of hearing that may have been offered to the petitioner, may have remained to be provided, in proceedings hurriedly concluded.

9. To the extent rules of natural justice are found to have been violated by introducing informality of telephonic conversation in the conduct of the formal adjudication proceeding and further for reason of adequate

opportunity to represent the case having been diluted, though the petitioner had wholly cooperated and participated in the proceeding on only two dates fixed i.e. 27.10.2025 and 22.10.2025, an exception is made out as may warrant exercise of our extra-ordinary jurisdiction under Article 226 of the Constitution of India. It is so because, the order-sheet dated 22.12.2025 makes it plain and the matter was not discussed at any length but only the explanation furnished by the petitioner was taken on record, on that date. Effectively, the matter remained from being heard by the adjudicating authority, before the impugned order was passed. As noted above, a procedural error may have been forced for reason of time limitation expiring.

10. In view of the above, without making any observation as may affect the final merits of the writ petition and solely for reason of principles of natural justice violated, the present writ petition is **allowed**. The impugned order dated 30.12.2025 passed by respondent no.2 is set aside and the matter is remitted to the said authority to pass a fresh order after affording due opportunity of hearing to the petitioner, strictly in accordance with law, as expeditiously as possible, preferably on or before 31.03.2026. The petitioner undertakes to cooperate in the proceedings. Needless to clarify that the issue of limitation (in the instant proceeding) would stand waived, in view of the order of remand made in exercise of extra-ordinary jurisdiction under Article 226 of the Constitution of India.

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

February 12, 2026

Abhilash