

(2024) 11 UK CK 0010

Uttarakhand High Court

Case No: Writ Petition Miscellaneous Single No. 2479 Of 2022

Goyal Traders Through Proprietor

APPELLANT

Vs

Commissioner Uttarakhand State
Goods And Services Tax And
Others

RESPONDENT

Date of Decision: Nov. 7, 2024

Acts Referred:

- Uttarakhand Goods And Services Tax Act, 2017 - Section 74, 107, 107(6)(b)

Hon'ble Judges: Pankaj Purohit, J

Bench: Single Bench

Advocate: Tarun Pandey, Tarun Lakhera

Final Decision: Disposed Of

Judgement

Pankaj Purohit, J

1. By means of this writ petition, the petitioner has challenged the order dated 07.06.2022 (annexure no.1), whereby adjudication order was passed against the petitioner.
2. Facts of the case shorn-off unnecessary details are that the petitioner is a proprietorship firm and runs business in the field of supply of tobacco.
3. Petitioner is registered with the Uttarakhand G.S.T. Act, 2017 (hereinafter referred to as "Act of 2017").
4. The respondent-Department has conducted an audit of the petitioner-proprietorship firm for the Assessment Year 2017-18 and the impugned adjudication order was passed when several discrepancies were found in audit of the petitioner, in particular, that the petitioner-firm has wrongly availed the input tax credit. It is feeling aggrieved by the said order, the petitioner is before this Court.
5. Learned State counsel submits that the order impugned in the present writ petition is passed under Section 74 of Act of 2017, which is appealable, and appeal is prescribed under Section 107 of Act of 2017 before the Appellate Authority and the petitioner can avail such remedy of appeal.
6. Learned State counsel candidly submits that the writ was entertained only for the reason that during that period no Appellate Forum was available due to pendency of a SPA No.123 of 2022, Vinod Kumar Vs. State of Uttarakhand, but now the aforesaid special appeal has been finally decided and avenues of the appeal are open for assessees.

7. This fact is not disputed by learned counsel for the petitioner.

8. It is also contended by learned counsel for the State that the petitioner has already filed an appeal before the Appellate Authority against the order impugned in the present writ petition.

9. Accordingly writ petition stands disposed-off. The Appellate Authority is directed to decide the appeal of the petitioner filed under Section 107 of the Act of 2017 against the impugned order dated 07.06.2022 (annexure no.1), within a period of three months, from the date of production of certified copy of this order.

10. Needless to say that before disposal of the appeal, the petitioner shall deposit 10% amount before Appellate Authority under Section 107(6) and sub-clause (b) of the Act of 2017.