



2025:AHC-LKO:79384-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT TAX No. - 1358 of 2025

M/S Ocean E Mart Thru. Authorized Signatory
Sandeep Kumar Yadav

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Deptt. Of
Institutional Finance U.P. Lko. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Yogeshwar Sharan Srivastava
Counsel for Respondent(s)	: C.S.C.

Court No. - 3

**HON'BLE SHEKHAR B. SARAF, J.
HON'BLE MANJIVE SHUKLA, J.**

1. Heard learned counsel appearing on behalf of the parties.
2. This is a writ petition under Article 226 of the Constitution of India, wherein the writ petitioner has sought for the following substantial reliefs:-

- i. Issue a writ, order or direction in the nature of certiorari thereby setting aside the order dated 09.10.2025 passed by the Deputy Commissioner, State Tax, Lucknow Sector-22, Distt- Lucknow i.e. the respondent No.03 in ARN No. AD091250012518A under Section 73 read with section 61 of GST Act for the assessment year 2017-18 thereby the respondent no.3 revised the tax liability, in the interest of justice (Annexure No.01).
- ii. Issue a writ, order or direction in the nature of certiorari thereby setting aside the impugned order dated 28.09.2024 passed by the respondent No.2 rejecting the appeal on account of non deposition of disputed tax liability, in the interest of justice (Annexure No.02).
- iii. Issue a writ, order or direction in the nature of certiorari thereby setting aside the impugned order dated 24.09.2023 under Section 73 (3) of GST Act under the form of DRC-07 fixing the tax liability against the petitioner's tax discrepancy, in the interest of justice

(Annexure No.07).

iv. Issue a writ, order or direction in the nature of Mandamus directing thereby the respondent No.02 to settle the dispute by depositing the amount in the head of IGST and refund the access payment along with the interest of Rs.18% compounding as the petitioner's firm had deposited total tax amount of Rs.1,41,63,327.46/- in terms of CGST and SGST."

3. Learned counsel appearing on behalf of the petitioner submits that mistakenly the tax that was to be deposited as IGST, had been deposited by the petitioner under the head of CGST and SGST. He submits that he had brought this fact before the knowledge of the original authority under Section 73 (3) of GST Act as well as the appellate authority. However, the authorities did not take this into account and imposed liability on the petitioner for non-payment of tax under the head of IGST. In fact, the petitioner submits that if the CGST and SGST payments are taken into account, he has paid over and above the payments made under the IGST. He further submits that he is actually liable to get refund of the money.

4. Learned counsel for the petitioner relies upon the judgment of Kerala High Court in the case of **Saji S, Proprietor and others vs. The Commissioner, State GST Department and another**, (WP (C) No.35868 of 2018, decided on 12.11.2018) and places reliance on paragraphs no.7, 9 and 10.

5. Learned counsel appearing on behalf of the respondents has submitted that there is no mechanism by which the tax deposited as SGST and CGST can be transferred to the head of the IGST. He, however, fairly submits that it appears that the petitioner has paid taxes but in the wrong head.

6. In light of the same, the impugned orders are quashed and set aside with a direction upon the authorities to consider the matter afresh taking into account the tax deposited in SGST and CGST into the head of IGST. Needless to mention if any refund is due to the petitioner, the same shall be paid immediately as per Section 77 of the GST Act.

7. With the above direction, the writ petition is **disposed of**.

December 1, 2025

Renu/-

(Manjive Shukla,J.) (Shekhar B. Saraf,J.)