

अपर आयुक्त, राज्य कर, गौतमबुद्धनगर, जोन-नोएडा,
समस्त अपर आयुक्त ग्रेड-1, राज्य कर, उ0प्र0।

Writ Tax N0-1629 of 2024 M/S Varroc Polymers Ltd Vs State of Uttar Pradesh And Another में मा0 उच्च न्यायालय, इलाहाबाद को निर्णय दिनांक 05-02-2025 (प्रति संलग्न) का संदर्भ ग्रहण करने का कष्ट करें, जिसके द्वारा सम्बन्धित रिट याचिका में पारित किये गये आदेश के मुख्य बिन्दु निम्नवत् हैं-

8. It is admitted that notice dated 22.9.2023 (copy annexed as Annexure No. 2 of this writ petition) has been served to the petitioner to which a detailed reply/objection dated 23.10.2023 (copy annexed as Annexure no. 3 of this writ petition) has been submitted by the petitioner, which runs about 09 pages but the respondent authorities, while passing the impugned order, have just quoted the show cause notice and rejected the objection of the petitioner in two lines, which reads as under :-

“व्यापारी द्वारा 07 बिन्दुओं का स्पष्टीकरण पोर्टल पर दाखिल किया गया है, जो अस्पष्ट, अपूर्ण एवं साक्ष्यों से पूर्णतः समर्थित नहीं है, जो स्वीकार योग्य नहीं है। अतः व्यापारी द्वारा दाखिल प्रतिउत्तर अस्वीकार किया जाता है।”

9. The reply submitted to the show cause notice has been rejected without assigning any proper reason. It is settled law that reason is the heartbeat of every conclusion. An order without valid reasons cannot be sustained. To give reason is the rule of natural justice. One of the most important aspect for necessitating to record reason is that it substitutes subjectivity with objectivity. It is well settled that not only the judicial order, but also the administrative order must be supported by reasons recorded in it.

10. Highlighting this rule, the Hon'ble Supreme Court, in the cases of Assistant Commissioner, Commercial Tax Department, Works Contract & Leasing, Kota Vs. Shukla & Brothers, (2010) 4 SCC 785, M/s Travancore Rayon Ltd. v. Union of India, 1969 (3) SCC 868 have observed that the administrative authority and the tribunal are obliged to give reasons, absence whereof would render the order liable to judicial chastisement.

उपरोक्त आदेश में मा0 उच्च न्यायालय द्वारा न्याय निर्णयन अधिकारी पर Cost award भी किया गया है।

प्रायः देखा जा रहा है कि फील्ड में कार्यरत न्याय निर्णयन अधिकारियों द्वारा माल एवं सेवा के अधिनियम की विभिन्न धाराओं में आदेश पारित करते समय जारी नोटिस के अनुपालन में व्यापारी द्वारा पोर्टल पर अथवा ऑफलाइन दाखिल उत्तर/स्पष्टीकरण की विवेचना/परीक्षण न करते हुए दाखिल उत्तर/स्पष्टीकरण को केवल असंतोषजनक/अस्पष्ट/अपूर्ण/ साक्ष्यों से पूर्णतः समर्थित नहीं होने के आधार पर आदेश पारित किये जा रहे हैं। विभागीय अधिकारियों द्वारा विवेचनात्मक/युक्तिपूर्ण आदेश (Speaking Order) पारित न करने के कारण मा0 उच्च न्यायालय के समक्ष विभाग को अप्रिय स्थिति का सामना करना पड़ रहा है।

अतः मा0 उच्च न्यायालय, इलाहाबाद के आदेश दिनांक 05-02-2025 की प्रति प्रेषित करते हुए निर्देशित किया जाता है कि अपने अधीनस्थ समस्त अधिकारियों को उक्त से अवगत कराते हुए निर्देशित करें कि वह व्यापारी द्वारा दाखिल उत्तर/स्पष्टीकरण के परीक्षणोपरान्त विस्तृत आधार देते हुए प्रत्येक बिन्दु पर आवश्यक टिप्पणी/खण्डन का उल्लेख करते हुए विवेचनात्मक/युक्तिपूर्ण न्याय निर्णयन आदेश पारित किया जाय। उपरोक्त निर्देशों का कड़ाई से अनुपालन सुनिश्चित किया जाय।

संलग्नक-उपरोक्तानुसार।

(डा0 नितिन बंसल)

आयुक्त, राज्य कर,

उ0प्र0, लखनऊ।

पृष्ठांकन पत्र संख्या व दिनांक उक्त।

प्रतिलिपि- निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

- 1- अपर आयुक्त ग्रेड-1/2 (उ0न्या0कार्य), राज्य कर, प्रयागराज/लखनऊ को प्रेषित।
- 2- संयुक्त आयुक्त (आई0टी0), राज्य कर, मुख्यालय को इस निर्देश के साथ कि उक्त को विभागीय वेबसाइट पर समस्त अधिकारियों के सूचनार्थ प्रकाशित करने का कष्ट करें।

13/02/25
संयुक्त आयुक्त (वाद), राज्य कर,
मुख्यालय, लखनऊ।

Court No. - 2

Case :- WRIT TAX No. - 1629 of 2024

Petitioner :- M/S Varroc Polymers Ltd Plot No 35-A, Udyog Vihar Gr, Noida, Surajpur, Gautam Buddha Nagar, Uttar Pradesh, 201306

Respondent :- State Of Uttar Pradesh And Another

Counsel for Petitioner :- Atul Gupta

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal,J.

1. Heard Mr. Atul Gupta along with Ms. Aayushi Srivastava for the petitioner and Mr. Ravi Shanker Pandey, learned ACSC for the State-respondents.
2. Counter affidavit filed today, is taken on record.
3. Learned counsel for the petitioner does not propose to file rejoinder affidavit.
4. By means of present petition the petitioner is assailing the orders dated 24.7.2024 and 29.12.2023.
5. Learned counsel for the petitioner submits that the petitioner is registered firm having GSTIN No. 09AABCM2508F1ZS and engaged in the business of manufacturing of various polymer based auto components for vehicles. He further submits that the petitioner has received an intimation in Form ASMT 10 on 14.8.2023 alleging various discrepancies based on scrutiny of returns filed during the F.Y. 2017-18. Thereafter respondents had issued a show cause notice dated 22.9.2023 demanding Rs. 48,74,527/- along with interest and penalty of Rs. 507148/- to which the petitioner has submitted detailed reply through letter dated 23.10.2023. He submits that the petitioner on the basis of return filed, had explained each and every discrepancies allegedly mentioned in the notice dated 22.9.2023 but by the impugned order, the same has been rejected without assigning any reason or referring to the reply given by the petitioner. He further submits that only in two lines, the objection has been rejected and demand of Rs. 48,74,527/-

along with penalty of Rs. 50,7148/- has been imposed. He submits that the authorities had passed non-speaking order without assigning any reason, therefore, the same is liable to be set aside.

6. *Per contra*, learned ACSC supports the impugned order and submits that the petitioner was given various opportunities to appear but he has failed to do so. He prays for dismissal of the present writ petition.

7. After hearing learned counsel for the parties, the Court has perused the records.

8. It is admitted that notice dated 22.9.2023 (copy annexed as Annexure No. 2 of this writ petition) has been served to the petitioner to which a detailed reply/objection dated 23.10.2023 (copy annexed as Annexure no. 3 of this writ petition) has been submitted by the petitioner, which runs about 09 pages but the respondent authorities, while passing the impugned order, have just quoted the show cause notice and rejected the objection of the petitioner in two lines, which reads as under :-

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Kota Vs. Shukla & Brothers, (2010) 4 SCC 785, M/s Travancore Rayon Ltd. v. Union of India, 1969 (3) SCC 868 have observed that the administrative authority and the tribunal are obliged to give reasons, absence whereof would render the order liable to judicial chastisement.

11. Once the reason has not been assigned by the competent authority for levying the penalty then on this ground alone, the impugned orders cannot be sustained.

12. In view of above, writ petition is **allowed** with the cost of Rs. 5000/- awarded to the petitioner. The impugned orders are set aside. The cost shall be deposited by the respondent within two months from today and an affidavit of compliance shall be filed by the respondent.

13. List after two months in chamber in order to ensure the compliance of the order.

14. However, it is open for the respondent authorities to proceed against the petitioner in accordance with law.

Order Date :- 5.2.2025

Rahul Dwivedi/-