2026:AHC:122185

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 2765 of 2026

Wilh Loesch India Pvt Ltd

.....Petitioner(s)

Versus

Deputy Commissioner And Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Hemant Tyagi
Counsel for Respondent(s)	:	C.S.C.

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

Heard Shri Hardik Bohra (through video conference) along with Shri Hemant Tyagi, learned counsel for the petitioner(s) and learned ACSC for the State - respondents.

The instant writ petition has been filed questioning the legality and validity of the impugned appellate order; whereby, the appeal preferred by the petitioner against the assessment/adjudication order has been dismissed solely on the ground of delay, without entering into the merits of the controversy involved in the matter.

Learned counsel for the petitioner submits that the petitioner acquired knowledge of the impugned order passed by the Proper Officer on 09.11.2025 only upon initiation of the recovery proceedings. It is contended that the said fact was specifically pleaded in the delay condonation application filed along with the appeal; however, the Appellate Authority, without considering the aforesaid plea and in absence of any cogent material on record, treated the date of passing of the order as the date of communication thereof.

It is further submitted that such action of the respondent/appellate authority is contrary to the law laid down by the Division Bench of this Court in ***Bombino Agro Industries Limited Vs. State of U.P.***, reported in [(2026) 38 Centax 81 (All.)], which has, subsequently, been followed by this Court in a bunch of writ petitions, the leading of which being ***Manoj Kumar, Proprietor of M/s Sai Traders Vs. State of Uttar Pradesh*** [Writ Tax No. 2173 of 2026, decided on 19.05.2026].

It has further been submitted that the controversy involved in the present writ petition is squarely covered by the aforesaid judgement rendered in ***Manoj Kumar, Proprietor of M/s Sai Traders*** (supra).

Learned Standing Counsel does not dispute the aforesaid legal position.

Having heard learned counsel for the parties and upon perusal of the material brought on record, this Court finds that the issue involved in the present writ petition stands squarely covered by the law laid down by the Division Bench in ***Bombino Agro Industries Limited*** (supra) as well as by this Court in ***Manoj Kumar, Proprietor of M/s Sai Traders*** (supra).

This Court in paragraph no. 15 of the judgement rendered in ***Manoj Kumar, Proprietor of M/s Sai Traders*** (supra) has observed as under:-

"*15. Once the Division Bench of this Court has come to the conclusion that the date of communication as mentioned by the respective dealers shall be treated as actual date of communication, then the onus shifts on the Revenue to rebut by cogent materials. In absence thereof, the date of communication as declared by the dealer shall be treated as the date of actual communication and the limitation shall arise from such date.*"

The record shows that the date of communication of the order passed by the Proper Officer was 09.11.2025, which has not been rebutted by any cogent material and therefore, matter requires reconsideration.

In view thereof, the impugned appellate order cannot be sustained in the eyes of law and is hereby quashed.

Accordingly, the writ petition succeeds and is allowed.

The matter is remitted to the Appellate Authority concerned to pass a fresh order, strictly in accordance with law, after affording due opportunity of hearing to the parties and after considering the principles laid down in ***Bombino Agro Industries Limited*** (supra) and ***Manoj Kumar, Proprietor of M/s Sai Traders*** (supra), expeditiously, preferably within a period of two months from the date of production of a certified copy of this order.

May 27, 2026
Amit Mishra

(Piyush Agrawal,J.)