

Court No. - 3

Case :- WRIT TAX No. - 1999 of 2025

Petitioner :- M/S Nikhil Construction

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Rakesh Kumar Garg, Yash Garg

Counsel for Respondent :- C.S.C.

Hon'ble Shekhar B. Saraf, J.

Hon'ble Praveen Kumar Giri, J.

1. We have heard learned counsel appearing on behalf of the parties.
2. In the present factual matrix, the work carried out by the petitioner was completed on June 27, 2022 when the rate of tax (GST) was 5%. Subsequently, the rate of tax was changed from 5% to 12% as per the notification dated June 29, 2022 with effect from July 18, 2022.
3. The petitioner raised his invoice on March 10, 2025 including 12% tax and the payment was made by the respondents subsequently. However, the payment that was made, was for the entire amount along with 5% of tax.
4. Counsel on behalf of the petitioner submits that the balance 7% tax is payable by the respondents as per Section 14(a)(i) of the U.P. Goods and Services Tax Act, 2017.
5. Upon a perusal of the said section, it appears that the date of supply is required to be taken as either the date of receipt of payment or the date of issue of invoice whichever is earlier. In the present case, the rate that was prevalent on the date of issue of invoice was 12%.
6. Counsel on behalf of the respondents is directed to take instructions on the above issue as to why the rate should not be the rate as per the date of invoice as the invoice was raised prior to the payment being made by the respondents.
7. List this matter on July 25, 2025 as fresh.

Order Date :- 17.7.2025

Rakesh

(Praveen Kumar Giri J.) (Shekhar B. Saraf, J.)