



**HIGH COURT OF UTTARAKHAND AT NAINITAL**

THE HON'BLE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE SHRI SUBHASH UPADHYAY

8<sup>th</sup> May, 2026

**Writ Petition (M/B) 332 of 2026**

M/s Viral Buildcon Pvt. Ltd.

-----Petitioner

**Versus**

Assistant Commissioner of State Tax Office of the Assistant  
Commissioner State Tax Sector 2 and others

-----Respondents

**Presence:-**

Mr. Bimal Jain, Advocate, through V.C. and Ms. Azmeen Wason,  
Advocate for the petitioner.

Mr. B.S.Parihar, learned Additional C.S.C., assisted by Ms. Pooja  
Banga (through V.C.), learned Standing Counsel for the  
respondents.

**JUDGMENT: (per Manoj Kumar Gupta, C.J.)**

1. The petitioner has assailed the order dated 24.02.2026, passed by respondent no.1 rejecting the refund application filed by the petitioner under Section 54 of the GST Act on the ground that it was barred by limitation.

2. Learned counsel for the petitioner submits that the order has been passed in gross violation of Rule 92(3) of the CGST Rules, which specifically provides that no application for refund shall be rejected without giving the applicant an opportunity of being



heard. The case of the petitioner is that in response to Show Cause Notice dated 06.02.2026, the petitioner submitted his reply on 12.02.2026, and, in which specific request was made for being provided opportunity of hearing by virtual mode so that all the queries of the department are clarified. However, the department without fixing any date for hearing, has passed the impugned order.

3. Ms. Pooja Banga, learned Standing Counsel appearing for the Revenue has placed on record the instructions received from the Assistant Commissioner, Sector-2, Haldwani, according to which, by Show Cause Notice dated 06.02.2026, time was granted to the petitioner to submit reply by 13.02.2026 and the same date was fixed for personal hearing. The dealer submitted his reply on 12.02.2026. Thereafter, on 24.02.2026 the impugned order has been passed. It is also stated that the dealer has option to file an Appeal under Section 107 of the Act, which has not been filed.

4. It is not disputed before us that in response to Show Cause Notice dated 06.02.2026, the petitioner in his reply submitted on 12.02.2026 sought date for personal hearing by virtual mode, however, without considering the said request and without fixing any date



for hearing, the Department has proceeded to pass the impugned order.

5. Rule 93(3) of CGST Rules specifically provides for grant of opportunity of hearing before any rejection order is passed in respect of prayer for refund. Thus, there is clear violation of the Rule 93(3) of the Rules. Accordingly, the impugned order dated 24.02.2026 is quashed. The matter is remitted back to respondent no.1 for proceeding strictly in accordance with law.

6. The writ petition stands accordingly allowed to the extent, as above.

7. Pending application, if any, also stands disposed of.

**(MANOJ KUMAR GUPTA, C.J.)**

**(SUBHASH UPADHYAY, J.)**

Dated: 08.05.2026  
Kaushal



2026:UHC:3530-DB