

**Court No. - 32**

**Case :-** WRIT TAX No. - 2991 of 2025

**Petitioner :-** M/S Keshav Catering Service

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

**Counsel for Petitioner :-** Shubham Agrawal

**Counsel for Respondent :-** C.S.C.

**Hon'ble Chandra Dhari Singh,J.**

The instant writ petition has been filed with the following main reliefs:-

*"i. certiorari quashing the impugned appellate order dated 24.2.25 (Annexure No.1), passed by respondent no.2;*

*ii. certiorari quashing the ex-parte order dated 13.8.25(Annexure No. 3), passed by the respondent no.3 u/s 73 of the Act;"*

The instant writ petition under Article 226 of the Constitution of India is filed on the ground that the Appellate Tribunal is not yet constituted.

Sri Shubham Agrawal, learned counsel appearing on behalf of the petitioner submitted that in order to file an appeal before the Appellate Tribunal 20% tax is required to be deposited as per the provisions of Section 112(9) of the GST Act. He has relied upon several judgments/ orders passed by this Court and other High Courts.

Sri Arvind Mishra, learned Standing Counsel appearing on behalf of the State-respondents supported the submissions made by the learned counsel for the petitioner.

I have heard learned counsel for the respective parties at length and perused the record with utmost circumspection.

Similar issues had arisen before the various Hon'ble High Courts, which have been disposed of with certain directions to file an appeal as and when the appointment of President takes place.

In light of the facts and circumstances and judgments/ orders of this Court and other High Courts, the petitioner shall deposit the disputed tax liability in addition to earlier deposit before the assessing authority (which is 10% of the disputed tax amount) within two weeks from today.

Subject to the aforesaid deposit, the recovery proceedings of the balance amount shall remain kept in abeyance till the decision of the instant writ petition or approaching the appellate tribunal as per the notification dated 11.07.2024.

Learned Standing Counsel is directed to file counter affidavit within four weeks.

Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List on 10.09.2025.

It is made clear that the petitioner shall approach the appellate tribunal in accordance with the notification dated 11.07.2024, if he fails to do so, then the assessing authority has all liberty to take action against the petitioner, in accordance with law.

**Order Date :- 16.7.2025**

Radhika

**(Chandra Dhari Singh, J.)**