HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 2982 of 2026

M/S S.S. Pharma

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Dharmendra Kumar Tripathi, Vimal Chandra Pathak
Counsel for Respondent(s)	:	Ashish Kumar, C.S.C., Krishna Agarawal

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Shri Dharmendra Kumar Tripathi, learned counsel for the petitioner, Shri Shashi Prakash, learned ASGI assisted by Shri Krishna Agarwal for the Union of India and Shri Ravi Shanker Pandey, learned ACSC for the State-respondents.

2. In compliance of the earlier order, an affidavit has been filed by the Joint Secretary, Department of Revenue, Ministry of Finance, Government of India, New Delhi. The same is taken on record.

3. Learned ASGI, relying upon the said affidavit, has attempted to demonstrate that the GST Appellate Tribunals in the State of Uttar Pradesh are fully functional and discharging their duties. However, the contents of the affidavit do not support the submission. Rather, they disclose a disturbing state of affairs concerning the availability of the requisite Officers and technical personnel.

4. As per the affidavit, for GST Appellate Tribunal, State of Uttar Pradesh, 86 parts across various levels were sanctioned by the order dated 10.05.2024. Thereafter, 6 more posts were sanctioned by the order dated 05.05.2026. **Against a total of 92 sanctioned posts at different levels, only 29 posts have been filled up till date, while the process for filling up merely 6 posts is stated to be underway. The affidavit filed today clearly shows the vacancies of 63 posts at different levels. The said vacancies are yet to be filled.** For filling up the posts, on 14.09.2024, circular with regard to the vacancy was issued. The affidavit, however, does not disclose any concrete, effective or time-bound steps taken by the competent authority for filling up such vacancies.

5. The Court is constrained to observe that mere issuance of circulars and advertisements cannot constitute compliance with the obligation to make the statutory appellate forum functional. What is required is demonstrable and effective action culminating in actual filling up of the vacancies.

6. The affidavit further states that pursuant to the circular dated 14.09.2025, against 44 posts relating to the Benches in the State of Uttar Pradesh, only 14 posts could be filled up on the ground that adequate applications were not received. Thereafter, another circular dated 14.08.2025 is stated to have been issued. The chronology itself requires explanation. More importantly, the affidavit is conspicuously silent as to when, where and in what manner the vacancies were actually publicised, including whether the notices were uploaded on the official websites of CBIC, Department of Revenue, the Commissioners of Commercial Tax of the State GST and the Administrators of the Union Territories.

7. Even thereafter, a further circular dated 14.01.2026 was issued. Yet the affidavit fails to disclose what tangible steps followed thereafter, how the response was monitored, what number of applications were received, what scrutiny was undertaken, and what prevented the vacancies from being filled.

8. The very object of the Government to facilitate an effective functioning of the GST Appellate Tribunal by providing hassle-free mechanism, but the implementation by the Officers reflects a lack of requisite and effective follow-up with an intent to defeat the very purpose of the Government.

9. The Court cannot be expected to accept a formalistic compliance consisting merely of issuance of successive circulars, while the statutory appellate mechanism continues to suffer from substantial vacancies. Such an approach defeats the very purpose for which the GST Appellate Tribunal has been constituted and inevitably burdens litigants by depriving them of an effective statutory appellate remedy.

10. The affidavit, therefore, does not satisfactorily answer the concerns raised by this Court. On the contrary, it demonstrates the absence of adequate follow-up and monitoring at the appropriate level.

11. Confronted with the aforesaid position, learned ASGI seeks accommodation for today.

12. Accordingly, list this matter on 09.09.2026 as fresh along with the connected matter.

13. Before the next date, the Joint Secretary, Department of Revenue, Ministry of Finance, Government of India, New Delhi shall file a fresh, comprehensive and specific affidavit, and not a general or evasive one, clearly disclosing: **(i)** post-wise and Bench-wise status of all 92 posts; **(ii)** the posts presently vacant and the exact stage of the process for filling each such post; **(iii)** the date-wise action taken for filling up every vacancy and the authority responsible for such action; **(iv)** complete details of the action taken pursuant to the circulars dated 14.09.2025, 14.08.2025 and 14.01.2026; **(v)** the dates and manner in which the advertisements/notices were uploaded or circulated on the official websites and communicated to the concerned

authorities; **(vi)** the number of applications received against each post, the number scrutinised and the present status of each selection process; **(vii)** details of all correspondence exchanged with the Principal Bench, GST Appellate Tribunal and the respective Benches/authorities concerning the vacancies; **(viii)** and a clear, definite and time-bound schedule for filling up the remaining vacancies.

14. The Joint Secretary shall also specifically disclose the reasons for the prolonged failure to fill the substantial number of vacancies and the steps proposed to ensure that the process does not remain confined to repeated issuance of advertisements without effective conclusion.

15. The affidavit shall reflect actual action taken on the ground and not merely administrative assertions.

16. The Court makes it clear that if the next affidavit also fails to satisfactorily disclose effective and time-bound progress, the Court shall be constrained to require the presence of the responsible officer and consider passing appropriate further orders.

August 19, 2026
Amit Mishra

(Piyush Agrawal,J.)