Prem Sales Corporation v. State Of Up And 2 Others

WRIT TAX No. 279 of 2024 | Decision: 2024-02-28 | Allahabad High Court

Neutral Citation No. - 2024:AHC:35432-DB

Court No. - 39

Case :- WRIT TAX No. - 279 of 2024

Petitioner :- Prem Sales Corporation Respondent :- State Of Up And 2 Others Counsel for Petitioner :- Rahul Agarwal Counsel for Respondent :- C.S.C.

Hon'ble Saumitra Dayal Singh,J. Hon'ble Surendra Singh-I,J.

1. Heard Shri Rahul Agarwal, learned counsel for the petitioner

and Shri Ankur Agarwal, learned Standing Counsel.

2. Challenge has been raised to the seizure order dated 15.02.2024

whereby the petitioner's goods, namely, 540 bags of Gambier have

been seized under Section 129 of U.P. GST Act, 2017 (hereinafter

referred to as 'the Act').

3. Primarily, it has been submitted that seizure of goods have been

effected not on the strength of the original show cause notice dated

05.02.2024, but on the strength of reasoning and grounds with

which petitioner was never confronted. Thus, the issue of re-

validation of E-Way bills relied in support of the transaction, was

not known to the petitioner and he was not confronted to explain

that fact.

4. Presently, relying on the certificate issued by the software

provider of the transporter and other material, it has been asserted

that the said discrepancy was duly explained.

5. On the other hand, learned Standing Counsel would submit,

statutory alternative remedy is available to the petitioner by filing

an appeal against order impugned. All pleas being now raised may

remain to be raised in such appeal proceedings.

6. Having heard learned counsel for the parties and perused the

record, prima facie it does appear that the fact allegation on

account of which, the show cause notice was originally issued had

been duly explained by the petitioner. Adverse inference does not

appear to have been drawn on those grounds. Rather fresh grounds

have been culled out by the revenue authority.

7. In view of the such facts noted above, the revenue authority

ought to have given a fresh notice to the petitioner to disclose the new grounds for the proposed seizure before the impugned order may have been passed. Failure to provide such opportunity has resulted in the impugned order being passed in denial of the rules of natural justice. To that extent, no useful purpose may be served in relegating the petitioner to the forum of alternative remedy.

8. Accordingly, the writ petition is disposed of with following directions:-

(i) Petitioner may treat the impugned order to be the final show cause notice.

(ii) Petitioner may file reply thereto within a period of one week.

(iii) Upon such compliance shown, the respondent/authority may provide opportunity to the petitioner on 11.03.2024 and pass appropriate order not later than 15.03.2024.

Order Date :- 28.2.2024 Amit

(Surendra Singh-I, J.) (S.D. Singh, J.)

2024-02-29T11:09:51+0530 High Court of Judicature at Allahabad