M/S Tci Freight v. Assistant Commissioner Sector 4 And Another

WRIT TAX No. 1302 of 2023 | Decision: 2023-11-16 | Allahabad High Court

Neutral Citation No. - 2023:AHC:217875-DB

Court No. - 43

Case :- WRIT TAX No. - 1302 of 2023

Petitioner :- M/S Tci Freight Respondent :- Assistant Commissioner Sector 4 And Another Counsel for Petitioner :- Suyash Agarwal Counsel for Respondent :- C.S.C.

Hon'ble Anjani Kumar Mishra,J. Hon'ble Anish Kumar Gupta,J.

Heard Shri Suyash Agarwal, learned counsel for the petitioner and Shri Ankur Agarwal, learned Standing Counsel for the State-respondents.

Petitioner has pressed relief no.2 prayed for in this writ petition, which reads as follows:-

"(ii) Issue writ, order or direction in the nature of Mandamus directing respondent no.1 to release goods and vehicle no. RJ11GB6185 provisionally on furnishing the bond in form GST INS-04 and security in form of bank guarantee as per rule 140(1) of the UPGST rules read with section 67(6) of the UPGST Act 2017."

The petitioner, M/s TCI Freight, is alleged to be a Division of Transport Corporation of India Limited and is in the business of transportation of goods. M/s Havells India Limited, Alwar, Rajasthan dispatched goods to Shree Balaji Electric Company, Kanpur. The goods were dispatched through the petitioner by vehicle no. RJ11GB6185. The Eway Bill in this regard was generated on 21.10.2023 being eway Bill No.741377409037.

It is the case of the petitioner that in the challans, the vehicle number was wrongly mentioned as HR55AP5675. The vehicle no.RJ11GB6185 was intercepted as the wrong vehicle number was mentioned in the documentation.

For the above violation, a penalty of Rs.49,10,520/- has been imposed upon the petitioner. The petitioner furnished his reply, which was rejected and an order was passed on 03.11.2023 demanding the sum of Rs.49,10,520/- for the release of goods and vehicle.

It is the petitioner's case that although on the consolidated eway bill dated 23.10.2023, the vehicle number mentioned is RJ11GB6185, however, by mistake the challans mentioned vehicle no.HR55AP5675. This mistake was rectified and the

eway bill was updated.

It has also been contended that there is no finding in the order passed on 03.11.2023 that the mistake was with the object of evasion of tax. Moreover, no detention order under Section 129(1) in Form GST MOV-06 has been issued.

The petitioner applied for provisional release of the goods and vehicle in question, on furnishing a bond in Form GST INS-04 and security in form of bank guarantee as per Rule 140(1) of the UPGST Rules read with Section 67(6) of the UPGST Act, 2017. This prayer has been refused and hence the relief quoted above has been prayed for.

Learned Standing Counsel appearing for the respondents has admitted that under the rules, it is open for a party to claim provisional release of the goods and vehicle on furnishing the security in the Form of a Bank guarantee and bond in Form GST INS-04, as prayed for by the petitioner.

Since the submission made by counsel for the petitioner is not being disputed, the writ petition is allowed and relief no.2 prayed for in the writ petition, which has been pressed before us is liable to be granted.

The writ petition is accordingly allowed. A mandamus is issued, directing the respondent no.1 to release the goods and vehicle no.RJ11GB6185 provisionally on the petitioner furnishing a bond in Form GST INS-04 and security in form of bank guarantee as per Rule 140(1) of the UPGST Rules read with Section 67(6) of the UPGST Act, 2017.

Order Date :- 16.11.2023 Mayank

2023-11-29T17:09:39+0530 High Court of Judicature at Allahabad