M/S Singh Traders And 2 Others v. State of U.P. and Another

WRIT TAX No. 459 of 2024 | Decision: 2024-03-22 | Allahabad High Court

Neutral Citation No. - 2024:AHC:52246-DB

Court No. - 39

Case :- WRIT TAX No. - 459 of 2024

Petitioner :- M/S Singh Traders And 2 Others Respondent :- State of U.P. and Another Counsel for Petitioner :- Aditya Pandey Counsel for Respondent :- C.S.C.

Hon'ble Saumitra Dayal Singh,J. Hon'ble Prashant Kumar,J.

1. Heard Sri Aditya Pandey, learned counsel for the petitioners and Sri Ankur Agarwal, learned Standing Counsel for the State-respondents.

2. The present petition has been filed praying for the following relief:

"(i) Issue a suitable writ, order or direction in the nature of certiorari for quashing the impugned demand of penalty order passed in from GST MOV-09 dated 28.2.2024 and in Form GST DRC-08 dated 12.3.2024 (rectification order) passed by the respondent no.2 under the provisions of the CGST/IGST Act and Rules (Annexure-1 to the writ petition)."

3. Limited challenge has raised to the demand of penalty at the higher rate being 100 percent of the value of the goods under Section 129(1)(b) of the U.P. G.S.T. Act, 2017 (hereinafter referred to the as, 'the Act') from the petitioners who describe themselves to be the owner of the goods. Therefore, they claim to be entitled to release of the goods against payment of lesser security being twice the amount of the tax under Section 129(1)(a) of the Act.

4. At the outset, learned counsel for the parties have referred to the earlier order passed by this Court in Writ-Tax No. 16 of 2024 (M/s. Green India Vs. State of U.P. and another), (Neutral Citation No.-2024:AHC:29885-DB), decided on 21.2.2024.

5. At present, the petitioners are opposed to quantum of penalty and not at the stage of detention of goods.

6. We find the stand taken by the revenue authority is harsh and unreasonable.

7. Since, the goods were inspected in transit, some time may have

lost to the petitioners in making the appropriate representation to the detaining authority.

8. In any case, no prejudice may be caused to the revenue authority, if it were considered the claim of the petitioners, at this stage subject to outcome of the appeal filed by against the penalty order.

9. Learned counsel for the petitioner states, the petitioner does not dispute the levy of penalty. Only, the quantum is in dispute.

10. In such circumstances, on query made, learned counsel for the revenue has made a fair statement, it cannot be doubted, the petitioner is the bonafide owner of the goods.

11. Accordingly, the penalty order is modified to the extent penalty imposed. Quantum is reduced in terms of provisions of Section 129(1)(a) of the Act i.e. equal to twice the amount of tax imposed on the value of the goods, as estimated by the revenue authorities.

12. With the aforesaid observations and directions, the writ petition stands disposed of.

Order Date :- 22.3.2024 CS/-

(Prashant Kumar, J.) (S. D. Singh, J.)

2024-03-28T10:22:03+0530 High Court of Judicature at Allahabad