M/S Spirare Energy Pvt Ltd v. State Of U.P. And 3 Others

WRIT TAX No. 391 of 2020 | Decision: 2024-02-02 | Allahabad High Court

Neutral Citation No. - 2024:AHC:18563

Court No. - 1

Case :- WRIT TAX No. - 391 of 2020

Petitioner :- M/S Spirare Energy Pvt Ltd Respondent :- State Of U.P. And 3 Others Counsel for Petitioner :- Rahul Agarwal Counsel for Respondent :- C.S.C.

Hon'ble Shekhar B. Saraf,J.

1. Heard Sri Vedant Agarwal, learned counsel holding brie of Sri Rahul Agarwal and the learned Additional Chief Standing Counsel appearing on behalf of the State.

2. This is a writ petition under Article 226 of the Constitution of India, wherein the petitioner is aggrieved by the order dated February 22, 2020 passed by the Additional Commissioner, Grade-2 (Appeal)-I, State Goods and Services Tax, Agra dismissing the appeal filed by the petitioner and the order in original dated September 8, 2019.

3. Upon perusal of the record, it appears that apart from an error with regard to the address of the consignee in the E-Way Bill, there were no other issues with the said consignment. The invoice contained the address, the goods matched the description in the invoice and all other materials were intact. The imposition of tax is only on the basis of a technical error with regard to address of the consignee that was wrongly written the E-Way Bill. The authorities have not been able to indicate any mens rea on the part of the petitioner for evasion of tax.

4. In a catena of judgments, this Court has held that presence of mens rea for evasion of tax is a sine qua non for imposition of penalty and mere technical error would not lead to imposition of penalty [see M/s Modern Traders v. State of U.P. and others (Writ Tax No.763 of 2018, decided on 9.5.2018), M/s Galaxy Enterprises v. State of U.P. and others (Writ Tax No.1412 of 2022, decided on 6.11.2023 and Hindustan Herbal Cosmetics v. State of U.P. and others (Writ Tax No.1400 of 2019, decided on 2.1.2024].

5. In light of the above, the orders dated February 22, 2020 and September 8, 2019 are quashed and set aside. The amount deposited by the petitioner be refunded to it within a period of one month from date. Other consequential reliefs to follow.

6. The writ petition is, accordingly, allowed.

Order Date :- 2.2.2024 Kuldeep

(Shekhar B. Saraf,J.)

2024-02-03T12:36:02+0530 High Court of Judicature at Allahabad