# Mahavir Pipe Store v. State Of U.P. And 2 Others

WRIT TAX No. 1369 of 2019 | 2024-02-29 | Allahabad High Court

Official court-text rendition | Finin2min Judgment Intelligence

Neutral Citation No. - 2024:AHC:37118

Court No. - 1 Case :- WRIT TAX No. - 1369 of 2019 Petitioner :- Mahavir Pipe Store Respondent :- State Of U.P. And 2 Others Counsel for Petitioner :- Nishant Mishra Counsel for Respondent :- C.S.C.

1. Heard Sri Nishant Mishra, learned counsel appearing on behalf of the petitioner and Sri Ravi Shankar Pandey, learned Additional Chief Standing Counsel appearing for the State-respondent.

2. Instant writ petition arises out of penalty order dated August 28, 2018 passed under Section 129(3) of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the 'Act') and the order passed in appeal dated November 20, 2019 under Section 107 of the Act.

3. In the present case, the proceedings under Section 129(3) of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the 'Act') have been initiated subsequent to search of the business premises of the petitioner.

4. It has been categorically held by the coordinate Bench of this Court in Mahavir Polyplast Pvt. Ltd. Vs. State of U.P. and 2 others reported in (2022 U.P.T.C. [VOL.112] - 1514) that search and seizure of the godown cannot result in penalty proceedings under Section 129 of the Act.

5. In light of the above, present proceedings are not justified, and accordingly, the impugned orders dated August 28, 2018 and November 20, 2019 are quashed and set aside.

6. This Court directs the respondents to refund the amount of tax and penalty deposited by the petitioner within a period of four weeks from date.

7. The instant writ petition is allowed in aforesaid terms. Consequential reliefs to follow.

8. Any amount that has been deposited by the petitioner to be refunded within a period of four weeks from date.

Order Date :- 29.2.2024 Kuldeep

2024-03-01T10:51:08+0530 High Court of Judicature at Allahabad