



2026:AH:34773

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 7322 of 2025

M/S Gas Trade International

.....Petitioner(s)

Versus

State Of Up And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)

: Pooja Talwar

Counsel for Respondent(s)

: C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Ms. Pooja Talwar, learned counsel for the writ petitioner as well as Sri Shashikant Mishra, learned Standing Counsel, who appears for the State.

2. Since counter affidavit and affidavit have been exchanged between the parties and the learned counsel do not propose to file any further affidavit, the writ petition is being decided at the fresh stage.

3. The case of the writ petitioner is that the writ petitioner happens to be a registered dealer under U.P. GST Act 2017 having valid GSTIN No. 092500007757 TMP which is engaged in wholesale and trading business of all type of petro-chemicals and other related products. As per the writ petitioner in that sole Mixed Linear Alpha Olefins (30050.00 KG) to one M/s Rajesh Chemicals Pvt. Ltd., Ranchi, Jharkhand vide Tax Invoice dated 07.02.2025 to M/s Ridhi Sidhi Bulk Carriers, Gandhidham, Kachch. On E-way Bill No. 601854871211 was also prepared. The said goods were transported through a Tanker No. GJ39T1010 which became enrooted from Gujrat to Jharkhand. The said consignment was intercepted was on 10.02.2025 and physical verification was ordered to be carried out by issuance of MOV-2 on 11.02.2025. The physical verification of the

goods was done and a report being GST MOV-4 on 16.02.2025 and an order of detention was passed by the Assistant Commissioner Sector-3, Mobile Squad Mughalsarai Unit, State Tax, Chandauli i.e. respondent no. 2 under Section 129 (1) MOV-06 dated 16.02.2025. A show cause notice was issued by the respondent no. 2 on 18.02.2025 along with the test report issued by Shri Ganesh Analytical Labs 1111 Krishan Nagar, Meerut Road, Ghaziabad, according to which, the description of the sample was one lubricating oil sample and the goods were alleged to have been not in an appropriate form shown to be adulterated. The writ petitioner tendered his reply to the show cause notice dated 18.02.2025 on the same day and the vehicle along with the consignment stood released post payment of penalty through challan on 19.02.2025. Against the order dated 19.02.2025 passed by Assistant Commissioner Sector-3, Mobile Squad Mughalsarai Unit, State Tax, Chandauli the writ petitioner preferred an appeal Additional Commissioner, Grade-II (Appeal)-I, State Tax, Varanai i.e. respondent no. 3.

4. However without considering the contentions and the grounds raised in the appeal, the impugned order came to be passed on 06.06.2025 rejecting the appeal preferred by the writ petitioner by respondent no. 3.

5. Questioning the order passed by the original authority and the appellate order, the present writ petition came to be preferred, which was entertained and thereafter a counter affidavit came to be filed by respondent nos. 2 and 3 dated 29.01.2026 to which a rejoinder was filed by the writ petitioner on 11.02.2026.

6. Learned counsel for the writ petitioner sought to argue that the order passed by the original authority as well as by the appellate authority

cannot be sustained even for a single moment. Elaborating the said submission it is submitted that there happens to be an error which goes to the root of the matter vitiating the order impugned particularly when despite a specific stand taken by the writ petitioner not only in the reply to the show cause notice date 18.02.2025 but also in the appeal that the lab report issued by Sri Ganesh Analytical Lab 1111 Krishan Nagar, Meerut Road, Ghaziabad cannot be considered accurate and authentic as the description of the samples in the report says one "lubricating oil sample" as per the invoice the checking/testing should have been conducted for "Linear Alpha Olefin". Submission is that the said discrepancy indicates an error occurred in sending the samples and the test was conducted based upon lubricating oil rather than Mixed Linear Alpha Olefins. Argument is that once a specific ground is raised in reply to the show cause notice or in appeal, then the adjudicating authority might be the original authority or the appellate authority is under legal obligation to deal with each and every aspect of the matter while reciting reason in coming to the conclusions. In nutshell, submission is that there happens to be fault in the decision making process in that regard.

7. Sri Shashikant Mishra, learned Standing Counsel while countering the submissions so made by learned counsel for the writ petitioner submitted that each and every contentions so raised by the writ petitioner either in the reply to the show cause notice or in the memo of appeal have been considered and an order impugned had been passed, which is perfectly liable in accordance with law.

8. I have heard the submissions so made across the bar and perused the record.

9. Facts are not in issue. It is not in dispute that the writ petitioner sold Mixed Linear Alpha Olefins to M/s Rajesh Chemicals Pvt. Ltd., Ranchi, Jharkhand and invoice was prepared, E-way Bill was also prepared and the consignment was sent through transported route the subject tanker. The same was intercepted on 10.02.2025. MOV-02 came to be issued on 11.02.2025. Thereafter physical verification report was issued on 16.02.2025 GST MOV-04 and on 16.02.2025 the goods were detained by the respondent no. s2 under Section 129 (1) MOV-06. A show cause notice was issued to the writ petitioner on 18.02.2025 form GST TRC-01 accompany which the analytical report of Sri Ganesh Analytical Lab. The writ petitioner tendered its reply to the show cause notice on 18.02.2025. The relevant extract of the same are being quoted hereinunder:-

"The reason for the detention of goods along with the vehicle has been stated as the empirical observation made by the Honorable Assistant Commissioner, according to which the transported goods were found to be different from Mixed Linear Alpha Olefins. It should be noted that Mixed Linear Alpha Olefins is a clear, water-white liquid. Therefore, merely based on observation, it is generally not possible to determine whether the respective product is present in the tanker or not.

Therefore, the detention of goods should be viewed with suspicion, and we strongly object to this detention.

A reference has been made to a test report issued by SRI GANESH ANALYTICAL LAB, 1111 Krishna Nagar, Meerut Road, Ghaziabad. In the said test report, the sample description has been mentioned as "One Lubricating Oil Sample", whereas our goods are Mixed Linear Alpha Olefins. Additionally, some values in the test results have been presented

without specifying the units.

The remarks in the test report state that:

"The provided lubricating oil sample does not belong to any specific petroleum oil category but appears to be an adulterated mixed oil variant."

This clearly proves that an error occurred in sending the test sample, and the test evaluation was conducted on the basis of lubricating oil rather than Linear Alpha Olefins.

In the aforementioned point of the notice, the test report's parameters, such as specific gravity, flash point, viscosity, moisture, and ash content, have been compared with publicly available data. This approach assumes that, despite the obvious errors shown in the report, forming such a conclusion based solely on conjecture and surmise is entirely incorrect and is also in violation of the principles of natural justice.

While citing this matter, the detention of goods based on the assumption that the goods being transported are different from the declared goods, without any mens-rea goes against the order of the Hon'ble Allahabad High Court in Maa Vindyavasini Tobacco (P) Ltd., Writ C. No. 20203 of 2019, dated 20.10.2022.

4. We do not accept the penalty imposed by you. However, due to the loss incurred by the transporter due to the seizure of the vehicle and the inability to use the purchased goods legally, under protest, we are depositing the penalty under Section 129(1)(a) to release the goods. The challan for the same is attached here.

The fundamental principle SALUS POPULI EST SUPREMA LEX - meaning welfare of people is supreme of Law, inspired by principle of

justice, equity and good conscience, must be ensured to make the slogan
Ease of doing Business in practical."

10. Thereafter the writ petitioner deposited the penalty on 19.02.2025 and an preferred before the respondent no. 2, the relevant portions of which are as under:-

"4. The order for detention under section 129(1) through Mov-06 bearing No. ZD0902252082150 dated 16.02.2025 and on that basis Show cause notice u/s 129(3) in Form GSTR DRC 01 No. ZD090225243526C dated 18.02.2025 was issued stating;

a) That the reason for the detention of goods along with the vehicle has been stated as the empirical observation made by the Honorable Assistant Commissioner, according to which the transported goods were found to be different from Mixed Linear Alpha Olefins.

It should be noted that Mixed Linear Alpha Olefins is a clear, water-white liquid. Therefore, merely based on observation, it is generally not possible to determine whether the respective product is present in the tanker or not.

Therefore, the detention of goods should be viewed with suspicion, and we have strongly objected to this while mentioning the same in our reply against the Show Cause Notice.

b) That a reference has been made to a test report issued by SRI GANESH ANALYTICAL LAB, 1111 Krishna Nagar, Meerut Road, Ghaziabad. In the said test report, the sample description has been mentioned as "One Lubricating Oil Sample", whereas our goods are Mixed Linear Alpha Olefins. Additionally, some values in the test results have been presented without specifying the units.

c) The remarks in the test report state that "The provided lubricating oil sample does not belong to any specific petroleum oil category-but-appears to be an adulterated mixed oil variant". This clearly proves that an error occurred in sending the test sample, and the test evaluation was conducted on the basis of lubricating oil rather than Linear Alpha Olefins.

d) That in the Order, the test report's parameters, such as specific gravity, flash point, viscosity, moisture, and ash content, have been compared with publicly available data. This approach assumes that, despite the obvious errors shown in the report, forming such a conclusion based solely on conjecture and surmise is entirely incorrect and is also in violation of the principles of natural justice.

5. That despite submitting a proper reply against the Show Cause Notice, along with findings and evidence, our reply was not duly evaluated on its merits. Instead of assessing it based on facts and legal grounds, the Honorable Assistant Commissioner rejected it without providing any proper or legal reasoning, which is not legally valid and is against the principles of natural justice. The appellant emphasized that there is no intention of evasion of tax and proper tax has been charged in the bill. The transaction is bon-a-fide between two registered dealers and is properly recorded in his Books of Account.

6. That on that basis the goods were seized with vehicle and the appellant was asked to deposit a sum of Rs. 486810.00 on the value of goods as Penalty. The appellant got deposited the sum of Rs. 486810.00 for the release of the goods and the said deposit of the amount with the officer of the Mobile Squad is the matter of dispute in the present appeal.

7. That the goods were according to bill and it is not the case the Invoice is

not recorded in the books. Also there was no variance in the quantity of goods found and as recorded in the bill. The sale bill was issued in the regular course of business and the same has not been doubted. As such there is no malafide intention on the part of the appellant and the goods were being sent by making proper entry of the same in the books of accounts.

The appellant is objecting the imposition of Penalty and following grounds of appeal are set forth amongst others."

11. Thereafter the appeal came to be rejected by respondent no. 2 on 06.06.2025. The relevant extract where of is as under:-

"मेरे द्वारा अपीलकर्ता द्वारा दाखिल अपील मेमो, उल्लिखित तथ्यों सहायक आयुक्त राज्य कर, मुगलसराय इकाई, चन्दौली द्वारा पारित अभिग्रहण आदेश लिखित तथ्यों / तर्कों का विश्लेषण किया गया। प्रश्नगत सम्व्यवहार के * परिवहन हेतु आपूर्तिकर्ता सर्वश्री GASTRADE INTERNATIONAL-GANDHIDHAM, 201,2ND FLOOR DHIRAJ CHAMBER PLOT 36 SECTOR 9,GDM KUTCH, GSTIN-24AHKPA6145K1ZE द्वारा ई-टैक्स इनवाइस क्रमांक GTI/GDM/2425/265 दिनांक 07/02/2025, ई-वे बिल क्रमांक 601854871211 दिनांक 07.02.2025 जारी किया गया था, जिसमें परिवहीत माल MIXED LINEAR ALPHA OLEFINS (MLAO) घोषित किया गया था। जाँच अधिकारी द्वारा परिवहीत माल का CHEMICAL AUALYSIS/ जाँच हेतु उसका SAMPALÉ लेते हुए Sri Ganesh Analytical Lab, meerut road ghazabad-201003 भेजा गया जिसके द्वारा जाँच रिपोर्ट/ टेस्ट रिपोर्ट Ref. No. SGAL/24-25/174 दिनांक 15.02.2025 से प्रेषित की गई जिसमें लिखित Remarks निम्नवत है- The provided lubricating bil sample does not belong to any specific petroleum oil category but appears to be an adulterated mixed oil variant. जाँच अधिकारी द्वारा जाँच रिपोर्ट में SAMPALÉ को Specific Gravity, Flash

Poing, Kinematic Viscosity, Total Moisture Content, Total Ash Content के गुण एवं MLAO के Natural गुण में भिन्नता पाई गई। इसके अतिरिक्त जॉच रिपोर्ट में Sample adulterated mixed oil variant. पाया गया, जबकि प्रपत्रों में Mixed Linear alfa olefins घोषित है। इसकी रासायनिक विशेषताएं और अशुद्धियों MIXED LINEAR ALPHA OLEFINS की उच्च शुद्धता और स्थिरता से मेल नहीं खातीं। अतः रिपोर्ट की findings एवं रिमाक्स के सन्दर्भ में निष्कर्षित होता है कि परिवहित माल प्रस्तुत टैक्स इनवॉइस में घोषित माल से भिन्न है। इससे स्पष्ट है भौतिक सत्यापन पर परिवहित माल जारी टैक्स इनवॉइस से आच्छादित नहीं है। उपरोक्त से स्पष्ट है कि त्रुटिपूर्ण ढंग से टैक्स इनवॉइस में माल कि वास्तविक माल को छुपाकर प्रपत्रों में घोषित माल की आड़ में भिन्न गुणवत्ता के करयोग्य माल का परिवहन/बिक्री किया जा रहा है। अपीलीय पत्रावली पर उपलब्ध प्रपत्रों तथा अभिग्रहण पत्रावली एवं जॉच अधिकारी द्वारा पारित आदेश के साथ संलग्न प्रश्नगत माल की रिपोर्ट से स्पष्ट है कि परिवहित माल सप्लायर फर्म द्वारा जारी टैक्स इनवॉइस से आच्छादित नहीं है। प्रश्नगत माल के भिन्नता न होने के सम्बंध में अपीलकर्ता द्वारा अपीलीय वाद की सुनवायी के समय कोई भी अभिलेखीय साक्ष्य दाखिल/प्रस्तुत नहीं किया गया है। यदि समय रहते जॉचकर्ता अधिकारी द्वारा संगत प्रकरण को प्रकाश में न लाया जाता तो अपीलकर्ता/व्यापारी करापवंचन में सफल हो जाते। प्रश्नगत सम्व्यवहार में अपीलकर्ता द्वारा INTENTION TO EVADE तथा करापवंचन किया जाना प्रमाणित होता है।"

12. A bare look of reply submitted by the writ petitioner to the show cause notice as well as the memo of appeal would reveal that the writ petitioner has raised various contentions questioning the reliability of accuracy of the samples which was sent for analysis and the report also, however the same has not been considered in correct perspective.

13. As a matter of fact, once certain grounds are raised either in show cause notice or in the memo of appeal, then the adjudicating authority is

under obligation to consider the same might be in its discussion and conclusion, it might not according to the submission but at least this much is expected that the contentions are to be dealt with. Since the contentions have not been dealt with and only conclusions have been recorded without assigning reason in arriving to the same. Thus, the order cannot be sustained. Since the writ petitioner had taken several grounds in the memo of appeal which have not been considered, thus in the fitness of the matter, the matter needs to be revisited by the appellate authority. Accordingly the writ petition is being decided in the following terms:-

(a). the order 06.06.2025 passed by Additional Commissioner, Grade-II (Appeal)-I, State Tax, Varanai i.e. respondent no. 3 rejecting the appeal is set a side,

(b). the matter stands remitted back to the appellate authority to pass a fresh order within a period of two months.

14. While remitting back the matter to the appellate authority, the appellate authority shall deal with each and every contentions and pass an order with independent application.

15. The writ petition stands disposed of.

(Vikas Budhwar,J.)

February 17, 2026

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