

Court No. - 10

Case :- WRIT TAX No. - 1834 of 2025

Petitioner :- Shri Raju Ujir / M/S R. R. Enterprises

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Akashi Agrawal

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal,J.

1. Heard learned counsel for the petitioner and learned ACSC for the State-respondents.

2. This petition has been filed challenging the order dated 08.04.2025 passed by the respondent no.3/ Additional Commissioner Grade-2 (Appeal)-III, State Tax, Agra and order dated 09.03.2025 passed by the respondent no.4/ Assistant Commissioner, Mobile Squad Unit-10, State Tax, Agra.

3. Counsel for the petitioner submits that in its normal course of business, the petitioner's goods were in transit from Delhi to Telangana when the same were intercepted at Agra. After the interception of the goods, the goods were detained on the ground that no e-way bill was presented at the time of detention and thereafter, it was found that the registration of the petitioner was suspended on 22.02.2025, but the same has been restored. She further submits that thereafter, on 09.03.2025, a show cause notice was issued to the petitioner and subsequently, penalty order under section 129(1)(b) of the GST Act to the tune of Rs. 94,50,000/- was passed. Aggrieved by the penalty order, the petitioner preferred an appeal, which has been dismissed vide impugned order dated 08.04.2025.

4. Learned counsel for the petitioner further submits that the the registration of the purchasing dealer was cancelled on 30.04.2025 and, therefore at the time of detention or before passing of the seizure order or at the time of passing of the seizure order, both the purchaser and seller were duly registered. She further submits that the goods were accompanied with tax invoice, etc., but e-way bill could not be produced. She further submits that only on the basis of absence of e-way bill when the invoice had been issued, the intention to evade payment of tax could not be presumed and the same could not be attributed to the petitioner. While placing reliance on Clause 6 of the Circular dated 31.12.2018 with regard to "who will be considered as owner of the goods for the purpose of section 129(1) of the CGST Act", she submits that if invoice or any other specified document is accompanying the consignment of the goods, then either the consignor or the consignee should be deemed to be the owner of the goods. She further submits that in the case in hand, the petitioner, being a seller, has come forward and stepped forward to contest the proceedings and claim the goods, then provision of Section 129 (1) (a) of the Act will be applicable. On the said premise, she prays that the

goods be released in view of the said provision.

5. Learned ACSC could not show any provision or circular other than relied upon by counsel for the petitioner, as above.

6. In view of above, matter requires consideration.

7. Learned counsel for the respondents may file counter affidavit within six weeks from today. Rejoinder affidavit, if any, may be filed within one week thereafter.

8. In the meantime, goods in question shall be released forthwith in case the petitioner complies with the provision of Section 129 (1) (a) of the CGST Act. It is further provided that with regard to the balance amount, the petitioner shall furnish security, other than the cash or bank guarantee, to the satisfaction of the authority concerned.

9. List again in July, 2025.

Order Date :- 6.5.2025

Radhika