

**Chief Justice's Court**

**Case :-** WRIT TAX No. - 1433 of 2025

**Petitioner :-** M/s Riya Enterprises

**Respondent :-** State of Uttar Pradesh and 2 others

**Counsel for Petitioner :-** Aditya Pandey

**Counsel for Respondent :-** Ankur Agarwal (S.C.)

**Hon'ble Arun Bhansali, Chief Justice**

**Hon'ble Kshitij Shailendra, J.**

1. This petition is directed against the order dated 08.03.2025 under Section 129(3) of the Goods and Services Tax Act, 2017 (for short 'the Act').

2. Petitioner's vehicle was stopped at Lodhi Toll Plaza, Robertsganj, Sonbhadra and on being demanded, tax invoices with M/s Atul Traders as the seller from Patna, Bihar was produced in the name of the petitioner as purchaser along with E-Way Bill. It was indicated that TMT bar weighing 30300 Kgs was uploaded from Raigarh to Delhi. The authorities being suspicious of the existence of the two firms, made inquiries and came to the conclusion that both the petitioner and the seller M/s Atul Traders were bogus firms based on which, the order impugned has been passed.

3. Learned counsel for the petitioner made vehement submissions that the action of the authorities in making inquiries against the petitioner and the seller is beyond its jurisdiction as they are not the assessing authorities of the petitioner. Submissions have been made that the circulars have been issued by the State indicating the jurisdiction of the authorities under Section 129 of the Act and it has specifically been provided that the inquiry of the present nature cannot be undertaken without seeking permission from the higher authorities and, therefore, as the entire exercise undertaken

by the respondents is contrary to the said circular, the order deserves to be quashed and set aside.

4. Further submissions were made that in any case as the petitioner has claimed himself as the owner of the goods, in terms of the circulars issued by the State, the goods be ordered to be released under the provisions of Section 129(1)(b) of the Act to which the respondents cannot object. Attempts were made by counsel for the petitioner to contend that the finding has been recorded post the transaction and, therefore, on the date when the transaction took place, it cannot be said that the firm was non-existent.

5. Learned counsel appearing for the respondent vehemently opposed the submissions. Submissions have been made that a bare perusal of the order impugned (Annexure-1 to the writ petition) reveals that only bogus activities are being undertaken by the petitioner with the aid of M/s Atul Traders, inasmuch as that both the firms, were got registered on 29.11.2024 and 27.12.2024 and qua the seller firm, there does not exist any indication pertaining to GSTR-2A and, therefore, the order impugned does not call for any interference.

6. We have considered the submissions made by counsel for the parties and have perused the material available on record.

7. A perusal of the order impugned dated 08.03.2025 reveals that categorical findings have been recorded by the authorities pertaining to the nature of the firms involved, i.e. the petitioner as well as the seller M/s Atul Traders, both the firms are non-existent and were merely doing trading in bills for the purposes of availing ITC. Submissions sought to be made based on the circulars issued by the State pertaining to the jurisdiction and applicability of

provisions of Section 129 (1)(b) of the Act, in the present circumstances of the case, wherein a categorical finding has been recorded about the nature of the firms and essentially, no challenge has been laid to said aspect except for the technicalities sought to be argued pertaining to the same, we do not find the present case to be a fit case to exercise the jurisdiction under Article 226 of the Constitution of India.

8. The petition is, therefore, dismissed leaving it open for the petitioner to avail remedy in accordance with law.

**Order Date :- 3.4.2025**

RK/AKShukla

(Kshitij Shailendra, J)

(Arun Bhansali, CJ)