

**Court No. - 40**

**Case :-** WRIT TAX No. - 1333 of 2024

**Petitioner :-** M/S Fadil Enterprises

**Respondent :-** State of U.P. and Another

**Counsel for Petitioner :-** Rishi Raj Kapoor

**Counsel for Respondent :-** C.S.C.

**Hon'ble Shekhar B. Saraf,J.**

**Hon'ble Manjive Shukla,J.**

1. The present writ petition, filed under Article 226 of the Constitution of India, assails the actions of the respondent authorities with regard to detention of the goods and vehicle of the petitioner as well as subsequent orders passed under Section 129 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act").

2. At the outset, counsel appearing on behalf of the petitioner has restricted the prayers made in the writ petition to the proceeding initiated under Section 129 of the CGST Act.

3. The main issue in this writ petition is whether the goods may be released by the authorities under Section 129(1)(a) or 129(1)(b) of the CGST Act.

4. The main contention of the learned counsel for the petitioner is that the petitioner is the owner of the goods and, therefore, goods are to be released as per Section 129(1)(a) of CGST Act while the authorities have made the calculation under Section 129(1)(b) of the CGST Act by an order dated July 27, 2024.

5. Counsel appearing on behalf of the petitioner has submitted that the present case is squarely covered by the judgment of this Court in **M/s Halder Enterprises v. State of U.P. and others** reported in **2024 (2) ADJ 660 (DB)**.

6. Counsel for the respondent authorities has supported the actions of the authorities and stated that the actions taken by the authorities were correct in law.

7. On a bare perusal of the record and the judgment cited above, we find that the facts and issue in the present writ petition are quite similar to one in **M/s Halder Enterprises (supra)**. In light of the same, we see no reason why this Court should take a different view of the matter. Ergo, the goods would have to be released in terms of Section 129(1) (a) of the CGST Act.

8. Accordingly, the order passed by the authorities dated July 27, 2024 is quashed and set aside. The authorities are directed to carry out the exercise in terms of Section 129(1) (a) of the CGST Act within a period of three weeks from today.

9. As the petitioner has not pressed for the other prayers in the writ petition, the same may be pursued by it before the appropriate forum.

10. With the aforesaid direction, the writ petition is allowed.

**Order Date :- 3.9.2024**

Dev/-

**(Manjive Shukla,J.)      (Shekhar B. Saraf,J.)**