

Court No. - 6

Case :- WRIT TAX No. - 1689 of 2024

Petitioner :- M/S Monotech Systems Limited

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Abhinav Mehrotra, Satya Vrata Mehrotra, Utkarsh Malviya

Counsel for Respondent :- C.S.C.

Hon'ble Ajay Bhanot, J.

Heard Sri Abhinav Mehrotra, learned counsel for the petitioner and Sri Ravi Shankar Pandey, learned Additional Chief Standing Counsel for the State respondents.

The impugned order arises out of proceedings which were instituted after interception of the vehicle carrying the offending goods. The revenue authorities upon finding that the E-Way Bill was not filled asked the assessee to show cause. After physical inspection of the goods no discrepancy was found.

The goods tallied with the description in the E-Way Bill.

The assessee on show cause resisted the proceedings by filing a response. According to the assessee there was no intent to evade the tax. The goods in the vehicle were fully reconciled with the E-Way bill. Non filling of the part of E-Way Bill would not ipso facto trigger the proceedings under Section 129 of the GST Act in the facts of this case.

The adjudicating authority as well as the appellate authority negated the submissions made on behalf of the

assessee and passed the impugned order.

The facts which are admitted and disclosed from the records are these. There was no discrepancy in the goods which were physically found at the time of inspection and details of goods recorded in the E-Way Bill available with the driver of the vehicle. The authorities below have not found any intent to evade tax.

This Court has set its face against initiation of proceedings under Section 129 of GST Act in the wake of mere technical breaches. When substantial compliance of the provisions is disclosed and when the physical inspection of goods tallies with the goods declared in the E-Way Bill and no intent of tax evasion is made out, proceedings under Section 129 of GST Act become vitiated.

In VSL Alloys (India) Pvt. Ltd. Vs State of U.P. and Another (Writ Tax No.- 637 of 2018) this Court has held as under:

"We are in full agreement with the submission of learned counsel for the petitioner and after perusal of the relevant documents, we find no ill intention at the hands of the petitioner nor the petitioner was supposed to fill up Part-B giving all the details including the vehicle number before the goods are loaded in a vehicle, which is meant for transportation to the same to its end destination.

In the present case, all the documents were accompanied the goods, details are duly mentioned which reflects from the perusal of the documents. Merely of none mentioning of the vehicle no. in Part-B cannot be a ground for seizure of the goods. We hold that the order of seizure is totally

illegal and once the petitioner has placed the material and evidence with regard to its claim, it was obligatory on the part of the respondent no.2 to consider and pass an appropriate reasoned order. In this case, no reasons are assigned nor any discussion is mentioned in the impugned order of seizure and notice of penalty. The respondent no.2 has also not considered the above notification dated 07.03.2018."

The matter is covered by the judgment rendered in **VSL Alloys (supra)**. The impugned order dated 22.12.2023 passed by the respondent no. 2, Additional Commissioner, Commercial Tax Grade-2 (Appeal)-I, State Tax, Noida is unsustainable and is quashed.

The petition is allowed.

Order Date :- 11.11.2024

Pravin