

Court No. - 10

Case :- WRIT TAX No. - 1272 of 2022

Petitioner :- M/S U.S Metal Products

Respondent :- State Of U P And 2 Others

Counsel for Petitioner :- Abhishek Pratap Singh, Niraj Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal, J.

1. Heard learned counsel for the petitioner and Mr. Ravi Shanker Pandey, learned ACSC for the State -respondents.

2. By means of present writ petition, the petitioner is assailing the order dated 16.4.2022 passed by the Additional Commissioner, Grade -2 (Appeal), Commercial Tax, Muzaffar Nagar and the order dated 19.12.2021 passed by respondent no. 2 in FORM GST MOV -09.

3. Learned counsel for the petitioner submits that the petitioner is a registered firm established in the year 2008 at SIDCUL Haridwar, Uttarakhand having GSTIN 05ACTPS5795B1Z2 and manufacturer of Electrical Appliances Industry (Fan Covers) and Automotive Industry (Shock Absorber Castings, Wheel Cap Casting and Engine Cover Castings). In the normal course of business, the petitioner has received an order from Syska LED Lights Pvt. Ltd for which a Tax Invoice No. 3063 dated 6.12.2021 was issued and goods were transported through M/s Lalit Transport Corporation along with Consignment Note No. 3030 dated 17.12.2021 mentioning all the required detailed. The goods in question, during its onward journey from Haridwar, Uttarakhand to M.I. Road, Rajasthan, were intercepted in the State of UP and after verification of documents, no discrepancy was pointed out except in the e-way bill Invoice number was wrongly mentioned as 3096 in place of 3063. Thereafter penalty order has been passed which has been assailed in the appeal but the appeal has also been dismissed by the impugned order.

4. He further submits that the proceeding itself is bad. In support of his submission, learned counsel for the petitioner has relied upon the circular no. 64/38/2018 - dated 14.9.2018 and referred clause 5 (d).

5. *Per contra*, learned ACSC supports the impugned order.

6. The record shows that the goods were in transit when the same were intercepted and discrepancy in e-way bill was pointed out as tax invoice number 3096 was mentioned in place of 3063, however no other discrepancy whatsoever was pointed out with regard to quality, quantity or difference of items as mentioned in the

accompanying documents.

7. The relevant clause of the circular no. 64/38/2018 - dated 14.9.2018 is quoted hereunder:-

"5. Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under Section 129 of the CGST Act may not be initiated, inter alia, in the following situations:

a)....

b).....

c).....

d). Error in one or two digits of the document number mentioned in the e-way bill; "

8. On perusal of the said circular, it shows that if there is any error in one or two digits, the proceedings under Section 129 of the Act should not be initiated.

9. The circulars are binding on the authorities as held by the Apex Court in **Commissioner of Central Excise Vs. M/s Ratan Melting & Wire Industries [2008 (13) SCC 1]**, which has been followed in the case of **Commissioner of Central Tax Vs. M/s Gurukripa Resins Private Limited [AIR OnLine 2011 SC 596]**.

10. In view of the above, the entire proceedings itself are bad and not sustainable in the eyes of law.

11. In the results, the writ petition succeeds and is allowed. The impugned orders dated 16.4.2022 and 19.12.2021 are hereby quashed.

12. Any amount deposited by the petitioner shall be refunded in accordance with law.

Order Date :- 8.4.2025

Rahul Dwivedi/-