

Court No. - 40

Case :- WRIT TAX No. - 1095 of 2025

Petitioner :- M/S Satyam Traders

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Praveen Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Shekhar B. Saraf,J.

Hon'ble Kshitij Shailendra,J.

1. Heard Sri Praveen Kumar, learned counsel appearing on behalf of the petitioner and Sri Ankur Agarwal, learned counsel appearing on behalf of the respondents.

2. This is a writ petition under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by the impugned penalty order (MOV-09) dated March 6, 2025 under Section 129(3) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'Act') read with Section 20 of the Integrated Goods and Services Tax Act, 2017 passed by respondent no.3 as well as the detention order (MOV-06) dated March 2, 2025 under Section 129(1) Act.

3. Upon a perusal of documents, the ground raised by the authorities are based on two pillars - (i) the first ground is that the original invoice was not present with the goods, but a photocopy of the same was present; (ii) the weight of the truck that was weighed two days after detention was 25410 kilograms which was 270 kilograms more than the weight shown in the invoice.

4. The petitioner provided explanation and replied to the show cause notice and explained that the e-way bill was generated

properly and was present with the goods and photocopy of the invoice was also present which is the required under the law. He further submitted that because of rain that took place for two days after the detention, the weight of the goods may have increased. In any event he submits that the difference in the weight is negligible and is only of 1%.

5. Learned counsel appearing on behalf of the respondent authorities could not point out any specific ground wherein intention to evade tax has been brought forward by the authorities.

6. It is to be noted that in catena of judgements of this Court and the other High Courts have categorically held that the penalty to be levied under Section 129 (3) of the Act has to be based on intention to evade tax.

7. Learned counsel appearing on behalf of the petitioner has relied upon a judgement of the Apex Court in **Assistant Commissioner (ST) And Others vs. Satyam Shivam Papers Private Limited And Another** reported in (2022) 14 SCC 157 and a judgement passed by coordinate Bench of this Court in **M/s Gobind Tobacco Manufacturing Co. & Another vs. State of U.P. & 2 Others** reported in 2022 U.P.T.C. [Vol.111] - 1080 to buttress his arguments.

8. It is to be further noted that in the order passed under Section 129 (3) of the Act, the authorities have accepted the explanation of the petitioner with regard to the difference in weight and the only reason for which the penalty has been imposed is with regard to absence of original copy of the invoice.

9. Since the photocopy of the invoice alongwith e-way bill was

present, therefore, we do not find any intention to evade tax as the invoice that was present alongwith the goods was matching with the e-way bill and there was no discrepancy between the two.

10. In view of the above, since no *mens rea* to evade tax was there, we are of the view that the detention proceedings alongwith order under Section 129(3) of the Act are arbitrary and invalid in law. Accordingly, the impugned orders dated March 2, 2025 and March 6, 2025 are quashed and set aside.

11. With the above observations, the writ petition is disposed of.

Order Date :- 19.3.2025

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(Kshitij Shailendra,J.)

(Shekhar B. Saraf,J.)