

**Court No. - 9**

**Case :-** WRIT TAX No. - 3 of 2022

**Petitioner :-** M/S Raman Metal Works

**Respondent :-** Additional Commissioner And Another

**Counsel for Petitioner :-** Rahul Agarwal

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

**Hon'ble Rohit Ranjan Agarwal,J.**

1. Rejoinder affidavit, filed today, is taken on record.
2. Heard learned counsel for the petitioner and learned Standing Counsel for the State.
3. This writ petition has been filed assailing the order dated 24.07.2021 passed by Additional Commissioner, Grade-2 (Appeal), Commercial Tax, Aligarh.
4. Facts in brief are that the petitioner is a registered partnership firm, which deals in the business of lead ingots. The lead ingots are purchased from wholesaler, and goods are transported by truck/vehicle to the premises of the petitioner. It was on 02.12.2020 at about 10:42 p.m. that the Assistant Commissioner (Mobile Squad), Commercial Tax, Etah intercepted the vehicle No.HP-72B-7167 containing the lead ingots.
5. After physical verification, a show cause notice was issued on the ground that the goods which were being transported, though were carrying tax invoice and e-way bill, but the registration of the supplier firm had been cancelled by the Tax Authorities on 07.11.2020. The detention order was passed under Section 129 (1) of the Central Goods and Services Tax Act, 2017. A penalty was imposed upon the petitioner firm, against which, an appeal was

preferred which has been rejected by the order impugned.

6. Learned counsel for the petitioner submits that e-way bill was generated by the supplier firm and it would be presumed that when the e-way bill was generated, the supplier firm M/s Agrawal Metal was in existence.

7. Learned Standing Counsel has opposed the writ petition and submitted that the tax invoice is dated 01.12.2020 and the e-way bill was also generated on 01.12.2020, while the registration of the supplier firm M/s Agrawal Metal was cancelled by the Tax Authorities on 07.11.2020. According to him, there is violation of Rule 138 of the U.P. Goods and Service Tax Rules, 2017 (*hereinafter called as "Rules of 2017"*).

8. I have heard respective counsel for the parties and perused the material on record.

9. Rule 138 of the Rules of 2017 provides as under:-

***"Rule-138. Information to be furnished prior to commencement of movement of goods and generation of e-way bill.-***

*(1)Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees?*

*(i) in relation to a supply; or*

*(ii) for reasons other than supply; or*

*(iii) due to inward supply from an unregistered person,*

*shall, before commencement of such movement, furnish information relating to the said goods in Part A of **FORM GST EWB-01**, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal:*

*(2) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way bill in FORM GST EWB-01 electronically on the common portal after furnishing information in Part B of FORM GST EWB-01."*

10. From perusal of the said Rules, it is clear that the goods in transit has to be accompanied by the tax invoice along with e-way bills. In the instant case, though e-way bill and tax invoice was there, but registration of the supplier firm had already seized on 07.11.2020 as it was cancelled by the Taxing Authorities.

11. Once, the supplier firm was not in existence, it could not have issued the tax invoice dated 01.12.2020 and the transaction is sham. The tax invoice as produced by the petitioner firm issued by the supplier firm is against the provisions of Rule 138 of the Rules of 2017.

12. Considering the facts and circumstances of the case, I find that the order passed by the appellate authority needs no interference of this Court.

13. Writ petition fails and is hereby **dismissed**.

**Order Date :- 16.4.2025**

SK Goswami