

Court No. - 9

Case :- WRIT TAX No. - 475 of 2023

Petitioner :- M/S Sapan Trading Company

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

Counsel for Petitioner :- Shubham Agrawal

Counsel for Respondent :- C.S.C

Hon'ble Rohit Ranjan Agarwal,J.

Heard learned counsel for the petitioner and learned Standing Counsel for the State.

It is contended that the petitioner, who is a dealer of tobacco has purchased Pan Masala and Zarda scented tobacco from one M/s Sanjay Sales Agency, Delhi. The goods were in transit from Delhi to Indore. Two e-way bills along with tax invoice were generated on 17.12.2020 at 1:35 a.m. and 1:36 a.m. Copies of the e-way bills are annexed as annexure 1 to the writ petition. The goods were intercepted by the mobile squad of Taxing Authorities on 18.12.2020 at about 18.36 hours at Sarendhi Kheragarh Road, Agra.

According to learned counsel for the petitioner, the goods were duly accompanied by the tax invoice as well as e-way bills. He further contends that necessary compliance of Rule 138 of the U.P. Goods and Service Tax Rules, 2017 (*hereinafter called as "Rules, 2017"*) was made by the petitioner and as such, both the Taxing Authorities as well as Appellate Authority had wrongly imposed the penalty and had rejected the appeal.

Learned Standing Counsel has opposed the writ petition and submitted that it was on the information received that the goods were intercepted on 18.12.2020 on the ground that the vehicle in question had crossed the Toll Plaza on 17.12.2020, and it was presumed that the vehicle on the basis of one e-way bill had transported the goods twice.

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

It is a case where the goods were in transit from Delhi to Indore and the e-way bills were generated by the supplier firm on

17.12.2020 at 01:35 a.m. and 01:36 a.m. The goods in transit were accompanied by both the tax invoice as well as e-way bills, as mandated under Rule 138 of 2017, Rules. The interception of the goods by the mobile squad is admitted to both the parties is on 18.12.2020 at 18:36 hours. The vehicle in question were carrying necessary documents as mandated under Rule 138 and no question of the default arises on the part of the petitioner. The detention of goods and imposition of penalty is only on the basis of apprehension.

Considering the facts and circumstances of the case, I find that once the goods which was in transit was accompanied by tax invoice as well as e-way bills, there arose no occasion for passing the detention order as well as the penalty as there is no violation of Rule 138 of Rules, 2017.

The detention order as well as appellate order are hereby set aside. The penalty imposed is hereby set aside.

Writ petition succeeds and is hereby **allowed**.

Department to return back the penalty amount to the petitioner, within 30 days from today.

Order Date :- 16.4.2025
SK Goswami