

Court No. - 7

Case :- WRIT TAX No. - 1538 of 2018

Petitioner :- The Commissioner, Goods And Service Tax Act, Up

Respondent :- M/S Aneja Cargo

Counsel for Petitioner :- Bipin Kumar Pandey

Hon'ble Saumitra Dayal Singh,J.

1. Present writ petition has filed against the order passed by the the Appellate Authority dated 05.11.2018, by which the penalty imposed by the Assistant Commissioner (Mobile Squad), Jhansi under Section 129 of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the 'Act') has been deleted.

2. Learned Standing Counsel for the petitioner revenue submits that, in the first place, in the absence of any Tribunal having been constituted, the revenue is left without any statutory remedy and, therefore, the present writ petition may be entertained.

3. Pending constitution of the Tribunal, the present writ petition has been thus entertained.

4. On merits, it has been submitted that the findings recorded by the first Appellate Authority are perverse, inasmuch as this was the respondent's case that it had transported two consignments of different goods from Sonipat to Jhansi on 21.09.2018 and again on 24.09.2018 (disputed transaction). However, upon enquiry made, the explanation furnished by the assessee with respect to first transaction was found to be false. Even with respect to the goods that were seized which have resulted in the penalty proceedings, discrepancy in quantity of goods has been found to be established and, therefore, in his submission, the first Appellate Authority has erred in overlooking that vital aspect of the matter and in deleting the penalty.

5. Matter requires consideration.

6. Shri Subham Agarwal, learned counsel for the assessee (respondent) may file counter affidavit within four weeks. Rejoinder affidavit may be filed within two weeks thereafter.

7. List thereafter.

8. In the meanwhile, subject to the respondent depositing Rs. 4,00,000/- in cash and furnishing security, other than cash and bank guarantee, for another Rs. 4,00,000/-, the goods in question alongwith vehicle shall be released in favour of the respondent.

Order Date :- 4.12.2018

AHA