

**Court No. - 29**

**Case :-** WRIT TAX No. - 1480 of 2018

**Petitioner :-** Sunaiba Industries

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

**Counsel for Petitioner :-** Shubham Agrawal

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

**Hon'ble Pankaj Mithal,J.**

**Hon'ble Pankaj Bhatia,J.**

Heard Sri Subham Agrawal, learned counsel for the petitioner.

The petitioner is the selling dealer of the goods. The goods were being transported from Delhi to Kanpur in 30 builties. Only on account of improper invoice in respect of some of the builties, the goods have been seized and directed to be released on furnishing security and indemnity bond as provided under Section 129 (1) (b) of the U.P. Goods and Service Tax Act, 2017 (in short of the Act).

The only submission of Sri Subham Agrawal, learned counsel for the petitioner is that the petitioner is admittedly the owner of the goods and therefore for the purposes of release, deposit/security and indemnity bond in accordance with the provisions of Section 129 (1) (a) of the Act alone could have been demanded.

Since the petitioner is the selling dealer and the sale transaction has not attained finality, he continues to be the owner of the goods and is therefore entitle for the release the same in accordance with the provisions of Section 129 (1) (a) of the Act.

Sri Tripathi submits that a penalty order has already been passed.

The penalty order has nothing to do with the order of the release and it can be challenged in the appropriate forum independently.

In view of the aforesaid facts and circumstances, we dispose of the writ petition with the direction to the petitioner to deposit the tax & penalty and to furnish security & indemnity bond in accordance with the provisions of Section 129 (1) (a) of the Act and on deposit

of the amount as aforesaid or furnishing security and indemnity bond as may be required, the goods and vehicle of the petitioner shall be immediately released.

The petition is disposed of.

**Order Date :-** 26.11.2018

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