<u>Court No. - 29</u>

Case :- WRIT TAX No. - 1486 of 2018

Petitioner :- Mkc Traders And Another
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Shubham Agrawal
Counsel for Respondent :- C.S.C.

<u>Hon'ble Pankaj Mithal,J.</u>
<u>Hon'ble Pankaj Bhatia,J.</u>

The goods (Supari) of the petitioners in transit were seized along with vehicle as they were not accompanied by the tax invoice and the E-Way Bill. The said documents were produced by the petitioners after the issuance of the show cause notice and it was said that the driver has mistakenly left behind the said documents.

The aforesaid seized goods and the vehicle have been directed to be released under Section 129(3) of the U.P.G.S.T. Act, 2017 (hereinafter referred to as the Act) on the petitioners depositing the applicable tax and penalty equal to the said amount.

The submission of learned counsel for the petitioners is that the market value of the goods have wrongly been mentioned in the order passed under Section 129(3) of the Act and as such the amount of tax and penalty required to be deposited is too exorbitant.

This court in exercise of extraordinary jurisdiction is unable to determine the market value of the seized goods. Even the authority below in directing for the release of the goods has not finally adjudicated about the market value of the seized goods. It is only a summary assessment of the market value for the limited purpose of releasing the goods.

Since the seized goods have been ordered to be released subject to certain conditions it is not a case where there is any miscarriage of justice warranting interference by this court.

In such a situation, we do not feel that it is a fit case for us to interfere with the conditions impugned for the purposes of releasing of the goods.

Sri Shubham Agarwal, learned counsel for the petitioners at this stage submits that the transporter and the owner of the truck have both joined in filing the writ petition and that as there is no allegation against transporter at least, his vehicle be directed to be released without any condition.

A perusal of the seizure order and the order passed under Section 129(3) of the Act for the release of the goods reveal that the transporter has not been assigned any role in the entire transaction which had led to the seizure of the goods except that it is alleged that the driver had left behind the documents by mistake.

In view of above, since the detention of the vehicle of the transporter is likely to cause irreparable loss and injury to him as his business of transport would be affected, we direct for the release of the vehicle forthwith to the petitioner No.2 without any condition if the owner of the goods fails to turn upto comply with the conditions of release.

Accordingly, the Writ Petition is **disposed of**. Any observation made in the order of above would not come in way of the petitioner in the regular proceedings either regarding assessment or adjudication of the penalty.

Order Date :- 26.11.2018
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