

Court No. - 29

Case :- WRIT TAX No. - 1451 of 2018

Petitioner :- M/S A.M Enterprises

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

Counsel for Petitioner :- Nishant Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Mithal,J.

Hon'ble Ashok Kumar,J.

The goods of the petitioner in transit were intercepted and detained on 3.11.2018 at about 9:22 p.m., at Sardhana Meerut as the goods were not accompanied by the e-way bill.

Section 129 (1) of the U.P. Goods and Service Tax Act, 2017 (in short of the Act) provides that the goods so detained or seized shall be released after detention or seizure subject to the conditions specified.

The aforesaid provision contemplates for immediate release of the detained/seized goods on furnishing security and indemnity bond as may be provided under the order passed under Section 129 (3) of the Act. The order under Section 129 (3) of the Act was not passed for more than 12 days and thus the goods and the vehicle was unnecessarily kept detained and seized by the respondent without any just and proper cause. The notice under Section 129 (3) of the Act has been issued only after the petitioner has approached this Court and has filed this petition on 15.11.2018.

In view of the above, apparently there is inordinate delay on part of the officer in issuing notice under Section 129 (3) of the Act and in not passing an order under Section 129 (1) of the Act.

In these circumstances, we call upon the respondents to file personal affidavit of Arun Kumar Singh, V Assistant Commissioner (Mobile Squad-3) Meerut to show cause why notice under Section 129 (3) of the Act or the order of release of the goods could not be passed immediately after the goods were detained or seized on 3.11.2018.

The affidavit may be filed within two weeks.

In the meantime as the petitioner who is the registered dealer/owner of the goods, we direct the respondents to release the goods and vehicle on the petitioner's

furnishing security other than cash and bank guarantee of the amount equivalent to the proposed tax and penalty and indemnity bond of the same amount in accordance with Section 129 (1) (a) of the Act.

List on 5th December 2018.

Order Date :- 16.11.2018

SKS