<u>Court No. - 29</u>
Case :- WRIT TAX No. - 1430 of 2018
Petitioner :- Loka Ispat Pvt. Ltd.
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 Ajit Kumar,J.</u>

Heard Sri Shubham Agrawal, learned counsel for the petitioner and Sri C.B. Tripathi, learned counsel for the respondents.

The goods of the petitioner moving from Chhattisgarh to Hamirpur have been detained for the reason that the petitioner has tried to hide the correct identity of the consignee.

The argument of learned counsel for the petitioner is that he is a dealer at Aligarh and he had purchased the goods from Chhattisgarh which were directed to be delivered to the proposed buyer at Hamirpur. In respect of the said transaction, the bilty clearly mentions that the name of consignor and consignee as well as the person to whom the goods have to be delivered. The petitioner has also produced two invoices, one issued by the seller/ consignor of Chhattisgarh and the other from the petitioner himself for sale of those very goods to the consignee at Hamirpur.

In view of the aforesaid bilty and invoices, prima-facie there cannot be any controversy with regard to the identity of the person or dealer to whom the goods meant for delivery.

Moreover, the argument is that the goods and the vehicle can be seized under Section 129(1) only if there is any contravention to the provisions of the Act or the Rules. The detention order fails to specify any provision of the Act or the Rules which has been violated.

Sri C.B. Tripathi, learned counsel appearing for respondents prays for and is granted three weeks' time to file counter affidavit. One week thereafter is allowed to the petitioner to file rejoinder affidavit.

List thereafter for admission/ final disposal.

In the meantime, the detained goods and the vehicle shall be released forthwith, on the petitioner furnishing security other than cash and bank guarantee and the indemnity bond of the amount of the proposed tax and the penalty, as the petitioner is the owner of the goods, as per notice under Section 129(3) read with Section 129(1)(A) of U.P.G.S.T. Act.

Order Date :- 2.11.2018
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