

Court No. - 29

Case :- WRIT TAX No. - 1397 of 2018

Petitioner :- M/S Bajrang Enterprises

Respondent :- Union Of India And 3 Others

Counsel for Petitioner :- Alope Kumar

Counsel for Respondent :- C.S.C.,A.S.G.I.

Hon'ble Pankaj Mithal,J.

Hon'ble Ashok Kumar,J.

Heard Sri Alope Kumar, learned counsel for the petitioner.

The consignment of the petitioner who is a dealer of Madhya Pradesh of 20,000 Kg. of mustered seeds has been detained by GST authorities on 24.10.2018 under Section 129 (1) of the Central Goods and Service Tax Act, 2017 and in pursuance thereof a notice under Section 129(3) dated 24.10.2018 has been issued to the petitioner requiring him to deposit 50-50% of the penalty of the tax both under the Central GST and U.P. GST on the value of the goods for the purposes of release of the goods.

The submission of Sri Alope Kumar, learned counsel for the petitioner is that on the aforesaid item GST @ 5% is chargeable and therefore the tax incidence comes to Rs. 28,000/- only. He further submits that E-way bill could not be down loaded but it was subsequently produced after down loading it on 24.10.2018 which is valid upto 2nd November 2018.

In view of the aforesaid facts and circumstances, without entering into the merits of the detention order we direct for the release of the goods of the petitioner and the vehicle on deposit of the proposed amount of tax of Rs. 28,000/- and Rs. 25,000/- towards penalty and on deposit of the aforesaid amount the petitioner would be permitted to down load a fresh E way bill so that his goods may be pass through the State of U.P. by 5th November 2018.

It may be clarified that we have not expressed any opinion on the merits of the detention/seizure order or on the amount of tax or penalty which is proposed to be imposed by the authority concerned. The amount so deposited by the petitioner would abide by the final order to be passed in the consequential proceedings by the authorities.

The writ petition is disposed of accordingly.

Order Date :- 29.10.2018

SKS