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

Case :- WRIT TAX No. - 1144 of 2018

Petitioner :- M/S Masha Enterprises
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Ankur Agarwal,Suyash Agarwal
Counsel for Respondent :- C.S.C.,A.S.G.I.,Vaibhav Tripathi

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

Heard Sri Suyash Agrawal, learned counsel for the petitioner and Sri C.B. Tripathi, learned counsel appearing for respondent Department.

The goods of the petitioner in transportation from Ghaziabad to Meerut were seized along with the vehicle on 10.08.2018 as the E-Way Bill had expired.

The submission of Sri Suyash Agrawal, learned counsel for the petitioner is that there is no intention on the part of the petitioner to evade the tax and that no such intention is reflected from the seizure order. The transportation of the goods could not be completed within the time mentioned in the E-Way Bill due to traffic jam on account of *"Kanvar Yatra"* in Western U.P.

Sri Tripathi, on the other hand, contends that contravention of the provisions of the Act and Rules *ipso facto* entitles the seizure of the goods under Section 129 of the Act. The Act only provides that the goods in transportation shall accompany the E-Way Bill.

The question that arises is whether the expiry of the delivery time mentioned in the E-Way Bill would be construed as contravention of the provisions of the Act.

Sri Tripathi may seek instructions and file counter affidavit to the petition within a period of three weeks. One week thereafter is allowed to the petitioner to file rejoinder affidavit.

List for admission/final disposal after a month.

In the meantime, the goods and the vehicle seized on 10.08.2018 shall be released in favour of the petitioner on its furnishing security of the amount other than cash and bank guarantee equivalent to the proposed tax and the penalty already imposed.

Order Date :- 21.8.2018
Nirmal Sinha