Court No. - 21

Case :- WRIT TAX No. - 832 of 2018

Petitioner :- M/S J.V.D. Cera Coating And Colours (P) Ltd.
Respondent :- State Of U.P. And 4 Others
Counsel for Petitioner :- Suyash Agarwal
Counsel for Respondent :- C.S.C.

Hon'ble Krishna Murari,J.
Hon'ble Ashok Kumar,J.

Heard Sri Suyash Agarwal, learned counsel for the petitioner and Sri Manu Ghildayal, learned counsel appearing for the respondents.

A search was conducted on the business premises of the petitioner on 25.04.2018 in exercise of power conferred under Section 67 (2) of the U.P. Goods and Services Tax Act, 2017 (in short 'GST Act, 2017'). Panchnama of the goods was prepared on the estimate basis as the relevant books of account were not produced before the search authority petitioner was directed to deposit the tax and penalty to the tune of Rs.9,53,223/-.

Learned counsel for the petitioner contends that the books of account could not be produced at the time of search on account of the fact that the accountant who is the custodian of the said books was not present and could not be contacted. It is further submitted that the books of account were produced along with the reply submitted by the petitioner on 25.02.2018 and without taking into account, on surmises and conjuncture, the impugned order dated 04.05.2018 was passed under Section 67(6) of the GST Act, 2017. It is also submitted that once the books of account were produced, it was imperative upon the authority to consider the same and ought to have verified with the actual stock but without carrying on the said exercise, the impugned order has been passed.

Prima facie, issue requires scrutiny.

Sri Manu Ghildayal, who appears on behalf of the respondents may file counter affidavit within six weeks. Rejoinder affidavit may be filed within two weeks thereafter.

List immediately after expiry of the aforesaid period.

Considering the facts, we direct the respondent-authorities to release the goods which were seized on 25.04.2018 subject to deposit of Rs.3 lakh being made by the petitioner and for the balance amount adequate security may be provided other than cash or bank guarantee. After depositing the amount and submitting the receipt the respondents are directed to permit the petitioner to carry out the business.

Order Date :- 24.5.2018
OP