

Court No. - 1

Case :- MISC. BENCH No. - 12279 of 2020

Petitioner :- Shri Rameshwar Lal Foods Pvt. Ltd.Thru Amit Agarwal Director

Respondent :- State Of U.P. Sachivalaya Thru Addl. Chief Secy And Another

Counsel for Petitioner :- Naresh Chandra Mishra,Chandra Has Misra,Ramesh Chandra Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Kumar Jaiswal,J.

Hon'ble Karunesh Singh Pawar,J.

1. Heard Shri Naresh Chandra Mishra, learned counsel for the petitioner and Shri H.P. Srivastava, learned Additional Chief Standing Counsel for the State-respondent nos.1 and 2.
2. Heard on the question of admission.
3. Shri H.P. Srivastava, learned Additional Chief Standing Counsel for the State-respondent nos.1 and 2 has submitted that the petitioner is challenging the constitutional validity under section 16 (2) (c) of the U.P. Goods and Service Tax Act, 2017 and therefore, the petitioner has bye-passed the statutory remedy against the order dated 12.3.2020 passed by the Deputy Commissioner, Commercial Tax, Bahraich as provided under Section 107 of the U.P. Goods and Services Act, 2017.
4. On due consideration of the aforesaid the writ petition is admitted for final hearing.
5. Since Shri H.P. Srivastava, learned Additional Chief Standing Counsel has accepted notice on behalf of respondents, therefore, no further notice need be issued.
6. In view of the law laid down by the Apex Court in the

case of **Assistant Collector of Central Excise, Chandan Nagar West vs. Dunlop India Ltd. and others; 1985 SCC (1) 260** no case is made out to grant interim relief and pass a blanket order of stay, staying the demand of SGST amounting to Rs.37,41,282.00/-, CGST amounting to Rs.37,41,282.00/- and penalty amounting to Rs.7,48,257/-.

7. As per Rule 1-A Order XXVII of Code of Civil Procedure, 1908 a notice is required to be issued either to the Attorney General or to the Advocate-General, as the case may be, before granting a declaration about its invalidity by the High Court in exercise of its jurisdiction under Article 226 or 227 of the Constitution of India.
8. Issue notice to learned Advocate General.
9. As prayed, we grant six weeks' time to learned counsel for the respondents to file counter affidavit. Two weeks' time thereafter is granted to the petitioner to file rejoinder affidavit, if any.
10. **List after eight weeks.**

(Karunesh Singh Pawar, J.) (Pankaj Kumar Jaiswal, J.)

Order Date :- 31.7.2020

Arnima