

Court No. - 32

Case :- WRIT TAX No. - 592 of 2018

Petitioner :- M/S Maa Vindhya Vasini Tobacco Private Ltd.

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Shubham Agrawal

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

Hon'ble Krishna Murari,J.

Hon'ble Ashok Kumar,J.

Heard Sri Shubham Agrawal, learned counsel for the petitioner, Sri C.B. Tripathi, learned Standing Counsel for the respondent nos. 1,3 and 4 and Sri Anant Kumar Tiwari, learned counsel for the respondent no. 2.

By means of the present writ petition the petitioner has challenged the jurisdiction of the respondent nos. 1,3 and 4 as well as the seizure of the consignment of goods which was going from Kanpur to Bihar against the invoices, which are duly issued by the petitioner and the claim of the petitioner is that the invoices as well as the goods receipt (GR) issued by the transport company were containing all the details of goods as well as the tax charged.

It is submitted by the counsel of the petitioner that as required under the provisions of UPGST Act the petitioner has downloaded the requisite E-Way Bill-02 from the official website of the portal. In the E-Way Bill all the details are duly mentioned with regard to the consignment and it is further indicated that against which invoices the goods are being transported (sold). However, since the transport company and the vehicle was not engaged, till the time of the downloading of the E-Way Bill, the details with regard to the vehicle are not mentioned and the same are being mentioned subsequently after downloading the E-Way Bill in handwriting.

Seizing authority doubted the transaction on the basis of the hand written details of the vehicle number and has seized the goods as well as vehicle.

Heard learned counsel for the petitioner and learned counsel representing the opposite parties. With the consent of the parties the instant writ petition is decided finally without calling the counter affidavit.

We find no irregularity in the transaction in question, for the reason, that till the downloading of the E-Way Bill the transport company and the vehicle was not engaged and the same has been engaged subsequently therefore the details with regard to

the vehicle number has been mentioned by hand.

Learned counsel for the petitioner has further argued that even otherwise the details of the transport company or the vehicle are not necessary to be mentioned while downloading the E-Way Bill as the same are not mandatory.

In view of the aforesaid facts, we find substance in the submission of the learned counsel for the petitioner and since the petitioner is a registered dealer and the invoices clearly indicates the charge of IGST and Central Cess, we find no irregularity in the transaction in question, hence, the goods and the vehicle seized on 27th March, 2018 by the respondent no. 4 are directed to be released forthwith. The seizure order dated 27.03.2018 as well as notice issued under Section 129(3) (Annexure-3) dated 27.03.2018 are hereby quashed.

The writ petition is allowed.

Order Date :- 5.4.2018
SK Srivastava

(Ashok Kumar,J.)

(Krishna Murari,J.)