

Court No. - 3

Case :- WRIT TAX No. - 104 of 2018

Petitioner :- Puneet Automobiles Limited Through Director

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Shubham Agrawal, Rituraj Singh

Counsel for Respondent :- C.S.C., Gyan Prakash

Hon'ble Pankaj Mithal, J.

Hon'ble Saral Srivastava, J.

Heard Sri Shubham Agrawal, learned counsel for the petitioner and Sri C.B. Tripathi special counsel has appeared for the State of U.P. and Sri Anant Kumar Tiwari learned counsel for Union of India.

The new loader/tipper with temporary registration no.- JH05AL3888 coming from Jamshedpur (Tata Motors Limited) was detained and seized under Section 129(1) of U.P. GST on 02.01.2018 thereafter an order of penalty has been passed on 07.01.2018 under Section 129(3) of the U.P. GST Act. These two orders have been impugned by means of this writ petition. The submission of learned counsel for the petitioner is that the seizure has been done on account of non furnishing of the E-Way Bill immediately at the time of detention.

The further submission is that the requirement of E-Way Bill has been made applicable under the Central GST with effect from 1st February, 2018 and was not in place on the date of seizure though the State of U.P. alone has made a provision for the E-Way Bill earlier but that was not applicable to the State of Jharkhand from where the said loader/tipper had started journey.

In view of the facts and circumstances, notwithstanding the remedy of appeal against the order of the seizure, the loader/tipper were duly supported by other documents including temporary registration number ensuring no possibility of evasion of tax, as provided in other matters of the similar nature, we direct the respondent to release the loader/tipper without demanding any security from the petitioner forthwith leaving the order of penalty to be challenged by the petitioner if necessary by means of an appeal under Section 107 of the U.P. GST if so advised.

Sri C.B. Tripathi, may file reply to this writ petition within a period of three weeks. Two weeks thereafter is allowed to the petitioner for filing rejoinder affidavit.

List for admission/final disposal on the expiry of the above period.

Order Date :- 31.1.2018

Israr