

Court No. - 35

Case :- WRIT TAX No. - 829 of 2017

Petitioner :- M/S Air Transport Corporation (Assam) Pvt. Ltd.

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

Counsel for Petitioner :- Suyash Agarwal

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

Hon'ble Bharati Sapru,J.

Hon'ble Neeraj Tiwari,J.

Heard Sri Suyash Agarwal, learned Counsel for the petitioner and Sri Manish Goyal, learned Additional Advocate General assisted by Sri C.B. Tripathi, learned Standing Counsel for the State.

This writ petition has been filed by the petitioner seeking a writ of certiorari quashing the notice dated 22.11.2017 issued u/s 129(3) of UPGST Act as well as order dated 30.11.2017 passed u/s 129 (3) of the Act by which the respondent no.4 has directed the petitioner to deposit the penalty in excess of 50% of value of goods contrary to section 129 (1) (b) of the Act. There is a second prayer also seeking a writ of mandamus to release the goods covered under seizure memo dated 22.11.2017 on the furnishing security for 'applicable tax' as well as additional penalty @ 50% of value of goods as reduced by tax paid thereon as per Section 129 (1) (b) of UPGST Act 2017 and vehicle forthwith.

Against the order dated 30.11.2017 the petitioner has an statutory efficacious alternative remedy of filing an appeal under Section 107 of the U.P. Goods and Service Tax Act, 2017 read with Rule 109 A of the Rules. In the above regard, Sri Manish Goyal has made a statement that the appellate authority has been constituted by the State on 24th of November, 2017.

In view of the above, the instant writ petition is disposed of with the direction that in case, the petitioner files an appeal against the order dated 30.11.2017 within the next one week from today, the same shall be heard and decided in accordance

with law by the appellate authority within a period of one month therefrom.

However, the vehicle being Truck bearing Registration No.U.P. 21 BN 5211 on which the goods were found loaded may be released forthwith without demanding any security from the petitioner.

With the above observation the writ petition is disposed of. No costs.

Order Date :- 5.1.2018
S.P.