

**Court No. - 35**

**Case :- WRIT TAX No. - 870 of 2017**

**Petitioner :-** M/S Maa Vindhayasini Tobacco Pvt. Ltd.

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

**Counsel for Petitioner :-** Shubham Agrawal

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

**Hon'ble Bharati Sapru,J.**

**Hon'ble Saumitra Dayal Singh,J.**

Heard Sri Shubham Agrawal, learned counsel for the petitioner and Sri C.B.Tripathi, learned Special Counsel for the revenue.

Sri Prem Shankar Prasad, Advocate has filed his appearance slip on behalf of the respondent no.2, which is taken on record.

The goods have been seized on two grounds, one being discrepancy in the quantity. That discrepancy has been resolved and it is accepted to the department that the quantity of goods as disclosed in the documents is the same as found on physical verification. The other ground of seizure on which penalty has been imposed is that the goods, started their journey one week after the date of the invoice. Prima facie that cannot be the ground to seize the goods or to impose penalty.

Sri C.B.Tripathi, learned standing counsel prays for and is granted three weeks' time to file counter affidavit. Petitioner will have one week thereafter to file rejoinder affidavit.

List on 24.01.2018, showing the name of Sri Prem Shankar Prasad also as counsel for the respondents.

In the meanwhile, subject to the petitioner

furnishing security equal to the value of the goods and tax payable, in the form of indemnity bond, the vehicle along with goods shall be released in favour of the petitioner forthwith.

**Order Date :-** 22.12.2017

Lbm/-