

**Court No. - 35**

Case :- WRIT TAX No. - 818 of 2017

**Petitioner :-** M/S Samrat Carriers (Regd) Thru' Its Prop.

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

**Counsel for Petitioner :-** Suyash Agarwal

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

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

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

Heard Shri Suyash Agrawal, learned counsel for the petitioner and Shri C.B. Tripathi, learned Standing Counsel for the respondent.

This writ petition has been filed by the petitioner to challenge the order dated 11.11.2017 passed under Section 129(1) of UPGST Act (hereinafter referred to as the 'Act') and the penalty notice dated 11.11.2017 issued under Section 129(3) of the Act.

Learned counsel for the assessee Shri Suyash Agrawal states that the petitioner was engaged in transporting goods from Ludhiana(Punjab) to Calcutta (West Bengal). The goods were passing through the State of U.P. being a transit State.

By the notice dated 09.11.2017, the goods were detained on a single reason of absence of Transit Declaration Form ('TDF' in short). All other documents evidencing movement of goods from Punjab to West Bengal were found to be in order and also there is no allegation of discrepancy either in the description of goods or in the quantity.

Subsequent to the issuance of show-cause notice, the petitioner appears to have downloaded the TDF on 05.12.2017 and has filed the same in response to the penalty notice. The penalty proceeding is stated to be still pending as is apparent from the short counter affidavit filed in the writ petition.

Insofar as the imposition of penalty is concerned, the matter is still pending before the Proper Officer. We, therefore, do not

propose to enter into the validity of the penalty proceedings at this stage.

However, insofar as the seizure of goods are concerned, in view of the fact that the goods have been seized on a single reason of absence of TDF without any other allegation in respect of illegal import of the goods into the State of U.P., at this stage, we dispose of the writ petition with a direction that subject to the petitioner furnishing security of the amount demanded, in the shape of indemnity bond as provided under Rule 140, the seized goods and the Truck may be released forthwith in favour of the petitioner. However, the indemnity bond so furnished shall abide by the final order to be passed in the penalty proceedings.

**Order Date :- 19.12.2017**

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