

Court No. - 3

Case :- WRIT TAX No. - 906 of 2022

Petitioner :- M/S Mittal Plywood And Furniture

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Vishwjit

Counsel for Respondent :- CSC

Hon'ble Surya Prakash Kesarwani,J.

Hon'ble Jayant Banerji,J.

1. Heard learned counsel for the petitioner and the learned Standing Counsel for the State-respondents.

2. This writ petition has been filed praying for the following reliefs:-

"(i) Issue a writ, order, or direction in the nature of certiorari quashing the impugned order passed under Section 74 of the U.P.GST Act and Form GST DRC-07 dated 31.03.2022 issued under rule 142(5) of the Rules by the Respondent No.2 for the tax period April 2018-March 2019 (F.Y. 2018-19) in violation of provision of the Act as well as in gross violation of the principle of natural justice (Annexure No 4 to this writ petition).

(ii) Issue a writ, order, or direction in the nature of certiorari quashing the impugned order passed u/s 161 of the GST Act and GST DRC-08 dated 11.04.2022 issued/passed by the Respondent No.2 for the Tax period: April 2018 March 2019 (FY 2018-19).

(iii) Issue a suitable writ order or direction in the nature of mandamus directing the respondent No.2 not to take any coercive action against the petitioner."

3. The impugned order dated 31.03.2022 under Section 74 of the UPGST Act for the period from April 2018 to March 2019 (F.Y. 201-19) has been passed rejecting the adjournment application of the petitioner, followed by rectification order dated 11.04.2022 under Section 161 of the UPGST Act.

4. From the record, it appears that the first notice was given by the respondent no.2 to the petitioner on 15.03.2022 granting 15 days' time to submit reply with respect to the allegedly unverified transaction of Rs.3,19,22,729/-. On 30.03.2022, the

petitioner submitted online adjournment application seeking 15 days' time. Undisputedly, that application was the first adjournment application of the petitioner. The cause shown for taking adjournment was not disbelieved by the respondent no.2 and, yet, the adjournment application has been rejected and liability to tax has been assessed in the impugned orders.

5. From the facts as noted above, it is evident that the impugned orders have been passed by the respondent no.2 in gross breach of principles of natural justice.

6. For all the reasons aforestated, the impugned assessment order under Section 74 of the UPGST Act dated 31.03.2022 and the rectification order under Section 161 of the UPGST Act dated 11.04.2022 are, hereby, quashed. The matter is remitted back to the respondent no.2 to pass a fresh order in accordance with law, after giving reasonable time to the petitioner to submit his reply and after affording reasonable opportunity of hearing to the petitioner.

6. With the aforesaid direction, the writ petition is **disposed of**.

Order Date :- 8.7.2022

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