

Court No. - 38

Case :- WRIT TAX No. - 974 of 2022

Petitioner :- M/S Riadi Steels Llp

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

Counsel for Petitioner :- Aloke Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Saumitra Dayal Singh,J.

1. On oral prayer, learned counsel for the petitioner is directed to implead GSTN authority as respondent no.5. Let notice of the petition be served on Sri Gaurav Mahajan, learned counsel for the GSTN counsel.

2. Present petition has been filed against the order of the First Appeal Authority. Since the Tribunal has not yet been constituted, it is being entertained, at this stage.

3. It has been strenuously urged by learned counsel for the petitioner, undisputedly the vehicle bearing registration no.NL-01-AC-4429 is a 22 wheel Tata Signa describes as an Over Dimensional Cargo (in short 'ODC'), as it exceeds dimensional limit prescribed under Rule 93 of the Central Motor Vehicles Rules, 1989. Therefore, by virtue of Rule 138(10) of the UP GST Rules 2017, E-way bill issued to the petitioner on 25.03.2022 was valid on 02.04.2022 when the above described vehicle was stopped for checking. In absence of any dispute to the above description of the vehicle and in view of the clear language of the Rule, the goods may never have been detained or seized. Further, merely because the petitioner's representative may have applied for fresh E-way bill on 01.04.2022 during validity of the original E-way bill, issued to the petitioner on 25.03.2022 it would have no legal consequence.

4. It further appears, the description of the vehicle as 'ODC' could not be fed while obtaining the E-way bill as the GSTN portal does not allow for such description to be fed.

5. Learned Standing Counsel and Sri Gaurav Mahajan, learned counsel

affidavit. Petitioner shall have one week time thereafter to file rejoinder affidavit.

6. Put up on 02.09.2022 at the **top of the list**.

7. In the meanwhile, seized goods may be released in favour of the petitioner, subject to deposit of 25% of the disputed demand of penalty under the order dated 13.04.2022. Any amount that may have already been deposited by the petitioner shall be adjusted towards the amount required to be deposited under this order.

8. The GSTN authority is required to consider the feasibility of providing an additional field in the online form to be filled by dealers/transporters to obtain E-way bill, such that an additional field may be provided to feed the vehicle type i.e. normal or ODC etc., as may allow for the validity of the E-way bill to be issued with appropriate validity printed on that form issued to the concerned.

9. The above exercise if done may also allow for accurate tracking of vehicles and fewer disputes between the revenue authorities and the transporters with respect to validity period of E-way bills. Here, it may be noted, under Rule 138 of the UPGST Rules, the period of validity of an E-way bill has been provided on the basis of 100 Km of distance covered per day by an ordinary vehicle. However, the validity gets extended in case of ODC vehicles where the validity is determined on the basis of 20 Km of distance covered per day. Also, unless, the description of the vehicle is disclosed before hand, the movement may not be properly tracked, through software.

Order Date :- 22.7.2022
S.Chaurasia