

**Court No. - 3**

**Case :-** WRIT TAX No. - 518 of 2017

**Petitioner :-** Gng Enterprises Thru' Its Manager Kalyan Singh

**Respondent :-** State Of U.P. & 2 Others

**Counsel for Petitioner :-** Ashutosh Yadav

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

**Hon'ble Pankaj Mithal,J.**

**Hon'ble Umesh Chandra Tripathi,J.**

Petitioner is a partnership firm engaged in the business of construction and development of entertainment facilities including Multiplex theatres in district Saharanpur. Under the U.P. Entertainments and Betting Tax Act, 1979 (hereinafter referred to as the Act) an scheme was formulated on 3rd September, 2015, which was valid upto 31st March, 2020 permitting the Multiplex owners to collect entertainment tax and to retain 100% of the first year, 75% in the second and third year and 50% in the forth and fifth year. On the basis of the said scheme, the Entertainment Tax Officer /Collector, Saharapur vide order dated 20.07.2015 specifically permitted the petitioner to retain the entertainment tax to the above extent so as to enable it to recover the cost of construction of the Multiplex.

During the subsistence of the above scheme, the C.GS.T. and U.P.G.S.T. Acts have been implemented w.e.f. 01.07.2017 and the Act has been repealed vide Section 174 of U.P. G.S.T. Act with the saving clause that it will not effect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act provided the tax exemption granted under the repealed Act by any notification has not been rescinded or revoked by a fresh notification on or after the enforcement of the G.S.T.

The submission of Sri Abhishek Rastogi, learned counsel for the petitioner is that in view of Section 174 of the U.P.G.S.T. as there is no notification repealing the benefit conferred upon the petitioner under the scheme of the Act, he is entitle to collect entertainment tax as in the past upto 31st March, 2020 and to retain the percentage of it in accordance with the scheme.

Learned Standing Counsel appearing for the respondents No. 1 and 3 and Sri Krishna Agarwal, who has accepted notice on behalf of respondent No.2 are directed to file counter affidavit within one month. Two weeks thereafter are allowed to the petitioner for filing rejoinder affidavit. They would specifically

answer if the scheme granting tax benefit to the petitioner is still continuing or stand revoked either automatically or by any fresh notification.

List this petition for admission/final disposal 18.09.2017.

The petitioner is free suitably amend the petition if advised.

**Order Date :-** 28.7.2017

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