<u>Court No. - 29</u>

Case :- WRIT TAX No. - 309 of 2020

Petitioner :- M/S Shiv Traders
Respondent :- State Of Uttar Pradesh And 3 Others
Counsel for Petitioner :- Pranjal Shukla
Counsel for Respondent :- C.S.C.

<u>Hon'ble Pankaj Mithal,J.</u>
<u>Hon'ble Piyush Agrawal,J.</u>

Heard Sri Pranjal Shukla, learned counsel for the petitioner and Sri Manish Goyal, learned Additional Advocate General assisted by Sri B.K.Pandey, learned standing counsel for the respondents.

The petitioner has preferred this writ petition against the order dated 3.2.2020 passed by the office of the Deputy Commissioner, Meerut under section 74 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as the Act) imposing the penalty of Rs. 5,40,000/- on the suppressed turn over of Rs. 3,00,000/-.

The submission of Sri Pranjal Shukla, learned counsel for the petitioner is that suppression of turn over is not covered under section 74 of the Act, for the purpose of imposition of penalty. On the other hand Sri Manish Goyal, learned Additional Advocate General states that it is a case of search and seizure proceedings and is covered under section 74 of the Act read with section 67 of the Act and in view of the explanation 1(ii) of Section 74 of the Act, it hardly makes any difference if the penalty is imposed under section 74 or 122 of the Act.

Be that as it may, the order of penalty passed under section 74 of the Act or under section 122 of the Act, are both appealable under section 107 of the Act.

Since the petitioner has an alternative remedy of filing an appeal against the order dated 3.2.2020, we do not deem it necessary to exercise our jurisdiction on the merits of the case.

The writ petition is dismissed on the ground of alternative of remedy.

Order Date :- 12.6.2020
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Justice Piyush Agrawal
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