Court No. - 7

Case :- WRIT TAX No. - 1013 of 2019

Petitioners :- M/S A.K. Oversees, PH-5 Shiv Vihar, Gali No.6, East Karwal Nagr, DSK Public School North East, Delhi-110094 and 2 others
Respondents :- State of U.P. through Pricipal Secretary, Institutional Finance, Government of U.P. Lucknow and 2 others
Counsel for Petitioners :- Naveen Chandra Gupta
Counsel for Respondents :- C.B. Tripathi (S.S.C.)

Hon'ble Biswanath Somadder,J.
Hon'ble Dr. Yogendra Kumar Srivastava,J.

The subject matter of challenge in the instant writ proceedings is a detention order dated 11th September, 2019, issued by the Assistant Commissioner (Mobile Squad)-2, Kanpur.

The records reveal that after the detention order was issued on 11th September, 2019, it was followed up by a show cause notice which was issued on the same date. The show cause notice was addressed to the petitioner. The said notice was duly served under section 129(3) of the Uttar Pradesh Goods and Services Tax Act, 2017, upon the driver of the vehicle on the same date, i.e. 11th September, 2019.

In the said show cause notice, the date fixed for filing of the reply was 18th September, 2019. In spite of a specific date fixed for filing of reply, no reply was forthcoming from the petitioner. As such, an order under section 129(3) of the Uttar Pradesh Goods and Services Tax Act, 2017, was passed determining the amount of tax and penalty for release of the goods and vehicle. This order was passed on 29th September, 2019. In the said order a total amount of Rs.28,53,563.64p (Rupees twenty eight lakhs fifty three thousand five hundred and sixty three and paise sixty four only) was demanded as amount of tax and penalty for release of goods and vehicle.

This order was sent by a letter dated 30th September, 2019 by Registered Post. Till date, this order has not been complied with.

As such, the discretionary jurisdiction of this Court cannot be exercised under Article 226 of the Constitution of India in order to grant such reliefs to the petitioner as prayed for, considering the facts of the present case.

The writ petition is liable to be dismissed and stands dismissed accordingly.

Dismissal of the writ petition, however, shall not preclude the right of the writ petitioner to prefer any statutory appeal, if at all the same can be preferred in accordance with law.

Order Date :- 27.2.2020
Shahroz

(Biswanath Somadder,J.)

(Dr. Y.K. Srivastava,J.)