Court No. - 37

Case :- WRIT TAX No. - 678 of 2023

Petitioner :- M/S Sunil Traders
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Nishant Mishra,Saleem Akhter,Yashonidhi Shukla
Counsel for Respondent :- C.S.C.

Hon'ble Ajay Bhanot,J.

Shri Nishant Mishra, learned counsel assisted by Ms. Vedika Nath, learned counsel for the petitioner submits that the controversy is covered by successive judgments of Division Benches rendered by this Court in **Godrej and Boyce Manufacturing Co. Ltd. vs. State of U.P.** reported at **2018 (19) G.S.T.L 193 (All.)** and **M/s Varun Beverages Limited vs. State of U.P. and 2 Others** in **Writ Tax No. 1670 of 2018.**

Shri Rishi Kumar, learned Additional Chief Standing Counsel does not dispute the aforesaid proposition and fairly admits that the judgments of this Court in **Godrej and Boyce (supra)** and **M/s Varun Beverages (supra)** have attained finality since they have not been carried in appeal.

The order dated 22.12.2020 passed by respondent no. 2 and order dated 12.02.2018 passed by respondent no. 3 is assailed in this writ petition. In the impugned order dated 12.02.2018, penalty has been imposed with respect to the goods being transported without e-way bill under U.P.

G.S.T. Act, 2017 read with Rules framed thereunder. The infraction occurred during the period 01.02.2018 to 31.03.2018. Learned Division Bench of this Court in **M/s Varun Beverages (supra)** held as under:

"Relying on a decision of Division Bench of this Court in M/s Godrej and Boyce Manufacturing Co. Ltd vs State of U.P. and others reported in 2018 U.P.T.C.[Vol.100]-1206, it has been submitted, during the period 01.02.2018 to 31.03.2018 the requirement of e-way bill under U.P. GST Act read with Rules framed thereunder was unenforceable. Therefore, neither seizure of goods was justified nor can the penalty be sustained.

Having heard the learned counsel for the parties and perused the record, so far as the matter is squarely covered by a decision of Division Bench of this Court in M/s Godrej and Boyce Manufacturing Co. Ltd (supra), with which we are in agreement, the present writ petition is allowed. The impugned order dated 03.11.2018 and also the order dated 21.02.2018 are hereby quashed."

The petitioner is entitled to the benefit of the judgment rendered in **M/s Varun Beverages (supra)**. The writ petition is accordingly being decided in light of the law laid down in **M/s Varun Beverages (supra)**.

The impugned orders dated 22.12.2020 and 12.02.2018 are quashed. Any amount deposited by the petitioner shall be refunded in accordance with law within a period of one month.

The writ petition is allowed.

Order Date :- 16.11.2023
Pravin