<u>Court No. - 41</u>

Case :- WRIT TAX No. - 1364 of 2019

Petitioner :- M/S Tikaula Sugar Mills Ltd.
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Rahul Agarwal
Counsel for Respondent :- C.S.C.

<u>Hon'ble Siddhartha Varma,J.</u>

Rejoinder affidavit filed toady be kept on record.

This writ petition has been filed against the order of the Appellate Court dated 3.10.2019 by which the appeal has been dismissed as being barred by limitation.

It is the contention of the learned counsel for the petitioner that the appeal is to be filed by a person aggrieved and the order also ought to have been communicated to the person who is aggrieved.

It is clear from the counter affidavit, which has been filed by the State, that the order which was being appealled against was served on one Narendra Singh who admittedly was the driver of the transport agency who was taking the goods to the consignee.

As has been held by the judgment reported in **2019 (21) GSTL 145 (All.) : S/S. Patel Hardware Vs. Commissioner of State GST** that the intention of the Statute was that the order which was required to be appealled against under section 107(4) of the Goods and Service Tax Act, 2017 (hereinafter referred to as the 'Act') ought to have been communicated to such a person who was aggrieved by the order and, therefore, when the order was served on the driver, it cannot be said that the order was served on a person who was aggrieved by the order and, therefore, the order dated 3.10.2019 cannot be sustained and is thus quashed.

The appeal shall now be treated to have been filed within the limitation provided under section 107 of the Act and shall be decided in accordance with law.

The writ petition is, accordingly, allowed.

Order Date :- 27.1.2020
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(Siddhartha Varma, J.)