

Court No. - 1

Case :- MISC. BENCH No. - 1545 of 2020

Petitioner :- M/S Rajhans Transport Service Pvt.Ltd.Through
Auth.Person

Respondent :- State Of U.P.Through Finance Secretary,Finance
Ministry &Ors

Counsel for Petitioner :- Irshad Ali

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Kumar Jaiswal,J.

Hon'ble Karunesh Singh Pawar,J.

1. Heard Shri Irshad Ali, learned counsel for the petitioner and Shri Gopal Kumar Srivastava, learned Standing Counsel for the State-respondent nos.1 to 3.
2. The petitioner, who is a transporter, has filed this writ petition challenging the order dated 30.11.2019-Annexure no.3 to the petition, on the ground that he is a transporter and on 15.11.2019, goods of the respondent no.4 was loaded in his truck no.U.P. 21 CN 5694 for its transportation from Delhi to Arhiya, Bihar.
3. During checking on 18.11.2019, the opposite party no.3 detained the vehicle and had taken the documents from the driver of the vehicle and thereafter, without hearing the petitioner an order of detention has been passed by opposite party no.3 under section 129(1) of the CGST Act, 2017 read with section 20 of the IGST Act and imposed penalty of Rs.37,42,935/- towards tax and penalty on goods which were loaded on the vehicle.
4. Shri G.K. Srivastava, learned Standing Counsel for the State-respondents has submitted that against the order dated 22.11.2019, an appeal is provided before the Appellate Authority under section 107 of the GST Act,

2017 and therefore, in view of the statutory remedy of appeal available to the petitioner, he prays for and is granted dismissal of this writ petition.

5. During the course of the arguments, learned counsel for the petitioner has submitted that he is ready to pay all the due amount including penalty and prays that his truck be released.

6. As Statutory remedy of appeal is available to the petitioner, therefore, we are not inclined to accept the aforesaid submissions of learned counsel for the petitioner and grant liberty to the petitioner to challenge the said order under section 107 of the GST Act, 2017 and also after depositing the whole amount as per order dated 22.11.2019, file a copy of the receipt. Learned counsel for the petitioner also prays for grant of interim custody of the vehicle. In case an application is made along with the appeal by the petitioner, then, the same shall be decided expeditiously as early as possible, by passing a detailed and reasoned order, within a period of one week from the date of filing of the appeal and on depositing the whole due amount, in accordance with law.

7. With the aforesaid liberty, this writ petition is **disposed of.**

Order Date :- 21.1.2020

Arnima

(Karunesh Singh Pawar, J.) (Pankaj Kumar Jaiswal, J.)