

AFRCourt No. - 39RESERVED**Case :-** WRIT TAX No. - 1660 of 2018**Petitioner :-** Ashok Kumar Bhatia**Respondent :-** State Of U.P. And 2 Others**Counsel for Petitioner :-** Rahul Agarwal, Shubham Agrawal**Counsel for Respondent :-** C.S.C., C.B.Tripathi**Connect with****Case :-** WRIT TAX No. - 1676 of 2018**Petitioner :-** Rajendra Jain**Respondent :-** State Of U.P. And 2 Others**Counsel for Petitioner :-** Shubham Agrawal**Counsel for Respondent :-** C.S.C., C.B.Tripathi**And****Case :-** WRIT TAX No. - 1697 of 2018**Petitioner :-** Meena Anil Jain**Respondent :-** State Of U.P. And 2 Others**Counsel for Petitioner :-** Shubham Agrawal**Counsel for Respondent :-** C.S.C.**And****Case :-** WRIT TAX No. - 1661 of 2018**Petitioner :-** Ashok Kumar Bhatia**Respondent :-** State Of U.P. And 2 Others**Counsel for Petitioner :-** Rahul Agarwal, Shubham Agrawal**Counsel for Respondent :-** C.S.C., C.B.Tripathi**And****Case :-** WRIT TAX No. - 1645 of 2018**Petitioner :-** Praveen Singh @ Praveen Kumar Singh**Respondent :-** State Of U.P. And 2 Others**Counsel for Petitioner :-** Aloke Kumar**Counsel for Respondent :-** C.S.C.**Hon'ble B. Amit Sthalekar, J.****Hon'ble Mrs. Manju Rani Chauhan, J.****(Delivered by Hon'ble B. Amit Sthalekar, J.)**

Heard Sri Shubham Agrawal and Shri Alok Kumar, learned counsels for the petitioner and Shri Manish Goyal, learned Addl. Advocate General assisted by Sri C.B. Tripathi, learned standing counsel.

The petitioners in all the above connected writ petitions are the Truck owners and are challenging the individual notices issued against them under

section 130 of the U.P. Goods and Services Tax Act, 2017 (UPGST Act, 2017 for short) on the ground that they are only vehicle owners and are not doing any business in respect to the sale and purchase of the goods. Since the controversy involved in all the above connected writ petition is similar, therefore, all the petitions are being decided by this common order.

The petitioner in the writ petition no. 1660 of 2018 is seeking a direction to the respondent no. 3 Assistant Commissioner, Commercial Tax/State Goods and Services Tax, Mobile Squad-Kannauj to drop the proceedings initiated against the petitioner vide notice dated 17.12.2018 under section 130 of the U.P. Goods and Services Tax Act, 2017 (hereinafter referred to as the UPGST Act, 2017). A further relief has been sought directing the respondent no. 3 not to confiscate Vehicle No. UP 92 T/0714 and to release the said vehicle.

The case of the petitioner is that he is only the owner of the vehicle which he gives to various transporters as per request made by them for transporting their goods and the petitioner himself is not doing any business with respect to the sale and purchase of goods. It is stated that the petitioner is neither concerned with the purchaser nor the seller of the goods and his only role is for providing vehicle for transportation of the goods and he is not doing any business as contemplated under section 2(17) of the UPGST Act, 2017. The contention further is that the petitioner is neither a supplier of the goods or services as contemplated under section 2(105) of the UPGST Act, 2017 nor is he a registered person within the meaning of the term as defined in Section 2(94) of the UPGST Act, 2017 nor is he a 'taxable' person within the meaning of the word used in Section 2(107) of the UPGST Act, 2017. It is stated that a drive was lodged against 142 bogus firms involving 1519 Trucks through which goods were sought to be transported and an F.I.R. No. 0740 of 2018 was also lodged under sections 420, 463, 464, 468, 471, 34, 120-B of I.P.C. and section 132 of the UPGST Act, 2017 in police station Vibhuti Khand, Gomti Nagar, Lucknow. It is stated that the notice under section 130 of the UPGST Act, 2017 is with reference to the invoice bilty and E-Way Bill alleging that the tax on such transaction has not been deposited by the parties. Referring to the E-Way bill, copy of which has been filed as Annexure-3 to the writ petition, learned counsel for the petitioner submits that the GST registration number has been mentioned therein as 09AERP1093C1Z1 in the name of M/s Kusum Traders and the place of business has been shown as Siddharth Nagar. The details of the consignee is also given as GST No. 07CNSPS9695C1Z1 M/s Bhawna Trading Company, place of business is mentioned as Rui Mandi Sadar Bazar

Delhi. The E-way bill is shown as valid upto 3.11.2018, 11.59 p.m. and its status has been shown to be active. The ID of the transporter is shown as 09BDCPJ8219C2ZP/Junction Road Line.

The submission of the counsel therefore is that the registration of both the dealers namely the consignor and consignee was active mentioning thereby that their registration has not been canceled inspite of the proceedings having been initiated. It is submitted that Rule 8 of the UPGST Rules, 2017 requires every person other than a non resident taxable person to make a separate application for registration giving details as (i) permanent account number (PAN) (ii) mobile number declared under sub rule (1) (iii) make a declaration of the e-mail address verified through a separate onetime password. Reference to Rule 25 of the UPGST Rules, 2017 has been made which provides for physical verification of the business premises of a registered person. Learned counsel for the petitioner therefore submits that when the consignor and consignee are both active, the respondents should have proceeded against them and not against the petitioner transporter who has nothing to do with any illegality or non payment of tax by either the consignor or consignee of the goods.

Referring to the documents filed at page 78 of the counter affidavit, he submitted that the order of cancellation of registration which is dated 22.12.2018 refers to a show cause notice dated 3.12.2018 which is two months after the date of transaction and shows the recovery under various heads to be Nil. He therefore submits that no recovery is being made from the seller M/s Kusum Traders. The counsel further referred to Rule 138 of the UPGST Rules, 2017 which states that till such time as an E-way bill system is developed and approved by the Council, the Government may, by notification, specify the documents that the person in charge of a conveyance carrying any consignment of goods shall carry while the goods are in movement or in transit storage. Reference has also been made to the amended Rule 138-A added by way of amendment vide U.P. Goods and Service Tax (14th Amendment) Rule, 2018 which makes amendments to section 138 and adds a new Rule 138-A which provides that a person incharge of conveyance shall carry:

- a) the invoice or bill of supply or delivery challan, as the case may be; and
- b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a radio Frequency identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

The learned counsel for the petitioner, therefore, submits that the transporter was duly carrying all the documents namely, E-way bill as required containing all the information therein and, therefore, the respondents could have proceeded to make recovery or issue notice under section 130 of the UPGST Act, 2017 or otherwise against the consignor or consignee. The counsel therefore referring to the notice dated 10.12.2018 filed as Annexure-1 to the writ petition submits that all the terms were mentioned in the E-way bill including registration number, Id number, GST number and name and address of the consignor and consignee, therefore, it was absolutely wrong to say that the dispatch or delivery has been made to bogus address and that the name of the transport company mentioned on the E-way bill was also found to be bogus.

Shri Manish Goyal, learned Addl. Advocate General, on the other hand, submitted that the documents filed as Annexure-3 to the writ petition no. 1660 of 2018 is a fraudulent document since it does not disclose the identity of the transporter nor does it disclose how many vehicles were given and for how many days, the vehicle were given to the trader. He further submits that the purpose of transport has also not been disclosed by the petitioner. Referring to the averments made in paragraphs 4,5,6 and 7 read with paragraph 43 of the writ petition, he submits that the petitioner has not filed the contract of Transporter to show as to whom the vehicles were being supplied, where they were being supplied, how many vehicles were supplied and for how many days the vehicles were being supplied. He refuted the contention of the petitioner that notice had wrongly been issued under the Central Goods and Service Tax Act (CGST Act, 2017 for short) and not under the U.P. Goods and Service Tax Act stating that the goods were infact being transported from Siddharth Nagar to Delhi and being an inter state transport of the goods the Central Goods and Service Tax Act would apply.

Shri Manish Goyal referred to the supplementary counter affidavit particularly Annexure-2 and 4 and submitted that the correct E-way bill of the Annexure SCA 2, is the E-way bill no. 431029790982 generated on 4.10.2018 at 6.42 a.m. and which was valid upto 21.10.2018. The details of the consignee has been mentioned as M/s Kusum Traders Mahadeo Ghurhu Itwa, Siddharth Nagar, U.P. as the station of origin and destination was shown as M/s Bhawna Trading Company, Rui Mandi, Sadar Bazar, New Delhi, which is out side Delhi, therefore, he submits that the Central Goods and Service Tax Act, 2017 would apply and not the U.P. GST Act, 2017. He further submitted that goods shown as 'copper scrape' and item no. 4 Transportation Details mentioned the

ID number of the Transporter and mentioned the vehicle number as UP 78 BT 7620 and the details of the traveling are shown as from Siddharth Nagar starting on 4.10.2018 at 6.42 a.m. He further submitted that at item no. 5 itself the same vehicle number being UP78BT 7620 is shown as starting from Kanpur on 15.10.2018 at 6.33 p.m. which shows the movement of the vehicle but then referring to Annexure-3 to the supplementary counter affidavit which is also an E-way bill no. 471029745207 generated on 4.10.2018 at 5.43 p.m. and shown as valid upto 9.10.2018 shows that the same vehicle UP78BT 7620 and consignor is shown as Waheguru Enterprises, Govind Nagar U.P. and the destination is shown as Chhabra Enterprises, Partap Market, Sadar Bazar, Delhi but in column 5 the same vehicle number UP78BT 7620 is shown as starting from Kanpur on 4.10.2018 at 4.53 p.m.

Learned Addl. Advocate General, therefore, submits that this is a clear case of fraud where the same vehicle is shown as starting from Siddharth Nagar on 4.10.2018 at 6.42 a.m. in one E-way bill and in another E-way bill it is shown as starting from Kanpur on 4.10.2018 at 5.43 p.m. whereas in the e-way bill no. 431029790982 it is shown as starting from Kanpur on 15.10.2018 at 6.33 p.m. Referring to Annexure-4 to the supplementary counter affidavit, he further submitted that for cancellation of registration a show cause notice was issued to one Shri Ravi Shankar Yadav, Mahadeo Ghurhu Itwa Siddharth Nagar on 29.11.2018 and registration was infact canceled on 24.12.2018, therefore, the contention of the petitioner that in the documents filed as Annexure-3 to the writ petition the G.S.T. Registration of the consignor has been shown to be operative is not correct. He further referred to page 25-A of the supplementary counter affidavit and submitted that Ravi Shankar Yadav is the proprietor of M/s Kusum Traders in whose name the permanent account number (PAN) has been issued and shows his correct status as canceled and mentions the commencement of business on 12.9.2018 and shows the current status as canceled.

Shri Manish Goyal then referred to the FIR, copy of which has been filed as Annexure-2 to the writ petition and referring to page 32 thereof he submitted that alongwith several other persons the FIR also mentions the name of the petitioner Ashok Kumar Bhatia therein. He has also referred to the various paragraphs from paragraph 10 to 32 of the writ petition wherein it is stated that on investigation by the Special Task Force constituted at the State Level in the office of the Commissioner, Sales Tax, it was found that 50 firms had obtained registration on one single form no. 9193351371 but registration

has been obtained by these firms in different States. It was also found that 27 firms have got registration on one Adhar Card. It is further stated that the investigating team has also found that 142 firms in 17 different States were completely bogus and that on one account number pertaining to electricity bill different persons have obtained registration certificates and these bills are also fake and not of real or of existing persons. The bank accounts of these firms have also been found to be fake showing the same balance in different names in the document used for the purposes of registration. Paragraph 14 of the counter affidavit is being reproduced below:

“14. That, it is also relevant to bring to the kind notice of this Hon'ble Court that GSTN in response to a Email from the answering respondents has also confirmed the following:

- 1) We had found 50 entities using this Mobile No. 9193351371 across the country.*
- 2) These 50 entities are using 09 unique Email ids.*
- 3) 22 more entities found using these 09 Email ids across the country.*
- 4) Extracted the pre-details of these 72 entities*
- 5) By PAN No. these numbers, 30 more entities found across the country.*

For kind perusal of this Hon'ble Court photo copies of letter written to the GSTN and their reply are being filed herewith and marked as Annexure No. C.A.-5 to this affidavit.”

In paragraph 20 of the counter affidavit, it is stated that in the notice dated 10.12.2018 issued under section 130 of the UP GST Act, 2017 the vehicle number has been mentioned as UP92T-0721. He submits that it is due to inadvertence and on noticing the error the corrected notice dated 17.12.2018 has been issued, copy of which has been filed as Annexure-11 to the counter affidavit. It is stated that the consignor and the consignee in respect of both the vehicles no. UP92T 0721 are the same. In paragraph 24 of the counter affidavit, it is stated that the registration of M/s Kusum Traders has already been cancelled as after inspection of the place of business of M/s Kusum Traders it was found that there was no such firm in existence. In paragraph 26 of the writ petition it is stated that Ashok Kumar Bhatia, the petitioner herein is a partner in S.G.C. Carrier, Kanpur, which is registered under the GST Act and the petitioner is shown as owner of vehicle no. UP92T 0724.

The learned Additional Advocate General further referred to Rule 138 Sub Rule (2) of G.S.T. Rules, 2017 and submitted that the sub rule provides that where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way

bill in **Form GST EWB-01** electronically on the common portal after furnishing information in **Part B of Form GST EWB-01**. He submitted that the e-way Bill filed as Annexure-3 to the writ petition does not disclose the name of the transporter or the vehicle details.

Sri Manish Goyal then referred to Section 129 of the CGST Act, 2017 which provides for 'Detention, seizure and release of goods and conveyance in transit' and submits that where any person transports any goods or stores any goods while they are in transit in contravention of the provision of the Act or the Rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released -

(a) on payment of the applicable tax and penalty equal to one hundred per cent of the tax applicable or Rs. 25000/-, whichever is less.

(b) on payment of applicable tax and penalty equal to the fifty per cent of the value of goods reduced by the tax amount paid thereon and in case of exempted goods, on payment of an amount equal to five per cent of the value of goods or twenty five thousand rupees, whichever is less.

Reference was also made to Section 130 of the UP GST Act 2017 which provides for 'Confiscation of goods or conveyances and levy of penalty.' Sub Section (1) Clause (v) of Section 130 states that if any person uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless, the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in-charge of the conveyance then all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under Section 122 of the Act. Reference has also been made to Section 130 Sub Section (2) proviso thereto which provides that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon. He also referred to Sub Section (4) of Section 130 which provides that no order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard. In this context, he submits that the petitioners have not taken any ground in the writ petition that they have not been heard before passing of the impugned show cause notice or confiscation of

goods or conveyance.

The learned counsel further referred to provisions of Section 122 of CGST Act, 2017 which provides for 'Penalty for certain offences' and submits that under Clause (xviii) therein provides that where a taxable person who supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act, he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under Section 51 or short deducted or deducted but not paid to the Government or tax not collected under Section 52 or short collected or collected but not paid to the Government and referring to Sub Section (3) of Section 122 submits that any person who acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act, he shall be liable to a penalty which may extend to twenty five thousand rupees.

We have given our anxious consideration to the rival submissions of the learned counsel for the parties and perused the documents on record. So far as the allegations in the First Information Report and the allegations made in the counter affidavit and the supplementary counter affidavit are concerned we are not inclined to express any opinion on the same as these are factual in nature and is the subject matter of consideration by the appropriate court conducting the criminal trial and any observation in that regard may prejudice the trial itself. However, with regard to the legal submissions, we may note that though the petitioner has taken the plea that he is not doing any "business" as contemplated in Section 2 sub section (17) and is not a "supplier" as defined in Section 2 sub section (105) and is not a "registered person" as defined in Section 2 sub section (94) of the Act, 2017 or that he is not a "taxable person" as defined in Section 2 sub section (107) of the Act, 2017 but so far as the provisions of Section 122 relating to penalty for certain offences are concerned he would fall within the definition of 'any person' who "in any way concerns himself" in transporting, removing, ... and he would be liable for payment of penalty to the extent of Rs. 25,000/-, if he is found guilty of the offence.

Sub section (3) of Section 122 of the Act, 2017 reads as under:-

"122.-Penalty for certain offences-

(1).....

(2).....

(3) Any person who—

(a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);

(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;

(e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account,

shall be liable to a penalty which may extend to twenty-five thousand rupees.

Likewise he would be liable for confiscation of the conveyance under Section 130 of the Act, 2017 and the third proviso therein if such conveyance is used for carriage of goods ... if the offence is established.

Section 130 of the Act, 2017 reads as under:-

130. Confiscation of goods or conveyances and levy of penalty:-

(1) Notwithstanding anything contained in this Act, if any person—

(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(ii) does not account for any goods on which he is liable to pay tax under this Act; or

(iii) supplies any goods liable to tax under this Act without having applied for registration; or

(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge of connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,

then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:

Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:

Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:

Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

(3) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person

referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.

(4) No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.

(5) Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.

(6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.

(7) The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.”

Section 129 Sub section (1) of the Act may also be extracted here.

“129. Detention, seizure and release of goods and conveyances in transit:-

(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,—

(a) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;

(b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;

(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.”

A reading of the said section and its sub sections shows that it relates to 'any person' who transports any goods or stores any goods while they are “in transit” in contravention of the provisions of this Act or Rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure shall be released on conditions as laid down in sub clauses (a), (b) and (c) of Sub Section (1) of Section 129 of Act, 2017. What is, therefore, noticed is that for the application of Sections 129 and 130 of the Act, 2017 it is immaterial that the person

proceeded against is not a registered person or a supplier or a taxable person or is not doing any business as provided in any of the sub sections of Section 2 of the Act, 2017. It is enough that he is a 'transporter' of goods and that the goods are being transported and have been seized in transit and if the charge is made out against the transporter, the respondents can proceed to seize such goods including the conveyance. In the present case what we find is that a show cause notice has been issued to the petitioner on 17.12.2018 and it is always open for the petitioner to file a reply to the same. Therefore, the contention of the petitioner that he is not doing any business in respect of sale or purchase of the goods or is not concerned with the goods as he is a mere transporter and is only providing vehicles for transporting and therefore the impugned notice is bad and without any substance and is rejected.

Learned counsel for the petitioner further submitted that under section 129 of the Act on payment of penalty of Rs. 25,000/- the conveyance is liable to be released. In our opinion, since the vehicle along with goods have been seized and an F.I.R. has also been lodged in this regard, it is always open for the petitioner to apply to the trial court for release of the conveyance and beyond this no further observations are required.

For reasons aforesaid, we do not find any good ground for interfering in the impugned show cause notice.

The **writ petition no. 1660 of 2018** lacks merit and is accordingly, **dismissed**.

In the connected **Writ petition no. 1676 of 2018 (Rajendra Jain Vs State of U.P. & Ors)**, the petitioner is seeking a direction to the respondent to drop the proceedings initiated against him vide notice dated 11.12.2018 under section 130 Act, 2017. A further relief has been sought directing the respondent no. 3 not to confiscate Vehicle No. UP-78CT 9789 and to release the said vehicle.

The facts and circumstances of this case are identical to that of the leading Writ petition no. 1660 of 2018 and therefore, this connected **Writ petition no. 1676 of 2018** is also **dismissed** in view of the observations made above.

In the connected **Writ petition no. 1697 of 2018 (Mrs. Meena Anil Jain Vs State of U.P. & Ors)**, the petitioner is seeking a direction to the respondent to drop the proceedings initiated against the petitioner vide notice dated 10.12.2018 under section 130 of the Act, 2017. A further relief has been sought directing the respondent no. 3 not to confiscate Vehicle No. MH-49AT0989 and to release the said vehicle.

The facts and circumstances of this case also are identical to that of the leading Writ petition no. 1660 of 2018 and therefore, this connected **Writ petition no. 1697 of 2018** is also **dismissed** in view of the observations made above.

In the connected **Writ petition no. 1661 of 2018 (Ashok Kumar Bhatia Vs State of U.P. & Ors)**, the petitioner is seeking a direction to the respondent to drop the proceedings initiated against the petitioner vide notice dated 10.12.2018 under section 130 of the Act, 2017. A further relief has been sought directing the respondent no. 3 not to confiscate Vehicle No. UP-78BT 7620 and to release the said vehicle.

The facts and circumstances of this case also are identical to that of the leading Writ petition no. 1660 of 2018 and therefore, this connected **Writ petition no. 1661 of 2018** is also **dismissed** in view of the observations made above.

In the connected **Writ petition no. 1645 of 2018(Praveen Singh @ Praveen Kumar Singh Vs State of U.P. & Ors)**, the petitioner is seeking quashing of the show cause notice dated 10.12.2018 issued under Section 130 of the Act, 2017. A further relief has been sought directing the respondent no. 3 to release the truck no. NL01Q/8841.

In this writ petition the facts are quite similar to that of the leading writ petition and Sri Alok Kumar, learned counsel for the petitioner has advanced the same arguments as that of Sri Rahul Agarwal and Sri Shubham Agrawal. The only differentiating contention of Sri Alok Kumar is that only the registration of the purchaser has been canceled but not of the seller Laxmi Sales Corporation against whom the department can proceed therefore, it was not necessary to seize the vehicle of the petitioner for the purposes of the enquiry. It is quite immaterial as to whether the registration of the purchaser or the seller has been canceled since these are all questions of fact into which this Court cannot enter or make any observations as the matter is pending before the trial court and any observations would prejudice the trial. So far as the legal arguments are concerned, the matter is already decided by us in the leading writ petition which are also applicable to the facts of the present case.

In this view of the matter the **Writ petition no. 1645 of 2018** is also dismissed in the light of the observations made above.

Order Date :- 14.3.2019
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