

Court No. - 1

Case :- WRIT TAX No. - 738 of 2024

Petitioner :- M/S Gupta Mentha Oil Commission Agent

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Pranjal Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Shekhar B. Saraf,J.

1. Heard Sri Pranjal Shukla, learned counsel appearing on behalf of the petitioner and Sri Ravi Shankar Pandey, learned Additional Chief Standing Counsel appearing for the State-respondent.

2. Instant writ petition arises out of penalty order dated June 23, 2018 passed under Section 129(3) of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the 'Act') and the order passed in appeal dated May 7, 2019, under Section 107 of the Act.

3. In the present case, the proceedings under Section 129(3) of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the 'Act') have been initiated subsequent to search of the business premises of the petitioner.

4. It has been categorically held by the coordinate Bench of this Court in **Mahavir Polyplast Pvt. Ltd. Vs. State of U.P. and 2 others** reported in **(2022 U.P.T.C. [VOL.112] - 1514)** that search and seizure of the godown cannot result in penalty proceedings under Section 129 of the Act.

5. In light of the above, present proceedings are not justified, and accordingly, the impugned orders dated June 23, 2018 and May 7, 2019 are quashed and set aside.

6. This Court directs the respondents to refund the amount of tax and penalty deposited by the petitioner within a period of four weeks from date.

7. The instant writ petition is allowed in aforesaid terms. Consequential reliefs to follow.

8. Any amount that has been deposited by the petitioner to be refunded within a period of four weeks from date.

Order Date :- 8.5.2024

Dev/-

(Shekhar B. Saraf,J.)