2025:AHC:207258

Reserved On: 17.11.2025
Delivered On: 20.11.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 324 of 2022

M/S Anish Transport Company

.....Petitioner(s)

Versus

State of U.P. and 2 others

.....Respondent(s)

Counsel for Petitioner(s)	:	A.k. Mishra, Niraj Kumar Singh
Counsel for Respondent(s)	:	C.S.C.

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Shri Niraj Kumar Singh, learned counsel for the petitioner and Shri Ravi Shankar Pandey, learned ACSC for the State – respondents.

2. The instant writ petition has been filed against the impugned order dated 26.10.2021 passed by the Additional Commissioner, Grade - 2 (Appeals) Second, Commercial Tax, Meerut.

3. Learned counsel for the petitioner submits that the petitioner is a Proprietorship firm registered under the GST and engaged in the business of transportation of goods from one place to another. He further submits that the goods were to be supplied through the petitioner and the goods and the vehicle commenced its movement in the midnight of 24/25.09.2020, which were intercepted on 25.09.2020. He further submits that the goods in question were in transit from Dehradun to Delhi and the same were intercepted at Meerut. On 26.09.2020, physical verification was conducted; wherein, it was found that in 138 cartons, there were 16295 boxes; whereas, in the e-way bill, total 167 cartons containing 19685 boxes were mentioned. On the said premise, goods and the vehicle were seized and detention order was passed. Thereafter, a show cause notice was issued and an order under section 129(3) of the GST Act was passed on 09.10.2020. Thereafter, the goods were released vide order dated 16.10.2020 on payment of amount equal to the market price by observing that M/s Balaji Enterprises (consignee) and M/s Pharmaid Health Care are the buyers/owners of the goods as per the tax invoice.

4. He further submits that once the goods were released finding the owner of the goods, no adverse inference can be drawn against the transporter. He further submits that none of the authorities have recorded any finding that the transporter has intent to evade payment of tax or the petitioner is engaged in the business of selling and purchasing of any goods. Therefore, in absence thereof, the proceedings initiated against the petitioner is illegal. It was further submitted that the goods were accompanied by requisite documents and there was no intention to evade payment of tax. Aggrieved by the order, the petitioner preferred an appeal, which has been rejected vide impugned order dated 26.10.2021.

5. Per contra, learned ACSC supports the impugned order and submits that the goods in question were less than declared in the accompanying documents and therefore, the proceedings have rightly been initiated against the petitioner.

6. After hearing learned counsel for the parties, the Court has perused the record.

7. It is nobody's case that the petitioner is a transporter and is transporting goods from one place to another by charging transportation charges. The goods in question were in transit from Dehradun to Delhi, which were intercepted at Meerut and all documents were produced before the authority concerned. On physical verification, some shortfall of goods were found, on the basis of which the present proceedings have been initiated against the owner of the goods as well as the vehicle carrying the goods, which were seized.

8. The explanation was submitted that due to human error of the labourer, less goods were loaded at night, which was not accepted and an order under section 129(3) of the GST Act was passed. The seized goods were released on payment of the amount, in which a categorical finding was recorded that the goods belong to the owner, the release order has been annexed as Annexure No. 7 to the writ petition.

9. The authority found that the goods belong to the consignor and the same have been released in their favour. The records shows that the authorities below have not recorded any finding against the petitioner, who is a transporter. No finding has been recorded that the transporter, i.e., the petitioner, is engaged in the business of purchase and sale of any goods. Once the consignor come forward with the case that due to human error of the labourer, less goods were loaded at night, the evasion of tax cannot be attributed to the petitioner, who is a transporter. Moreover, once the goods have been released to the consignor and in absence of any adverse material being brought on record against the transporter, the vehicle in question cannot be seized and no proceeding can be initiated against the petitioner.

10. In view of the aforesaid facts & circumstances of the case, the impugned order cannot be sustained in the eyes of law. The same is hereby quashed.

11. The writ petition succeeds and is allowed.

12. Any amount deposited pursuant to the impugned orders shall be refunded to the petitioner in accordance with law.

(Piyush Agrawal,J.)

November 20, 2025
Amit Mishra