



2025:AHC:156808

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 193 of 2021

M/S Cj Darcl Logistics Ltd.

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Aloke Kumar

Counsel for Respondent(s) : C.S.C.

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Mr. Punit Arun holding brief of Mr. Aloke Kumar for the petitioner and Mr. R.S. Pandey, learned ACSC for the State - respondents.
2. By means of present petition, the petitioner is assailing the order dated 25.12.2019 passed by respondent no. 3 and the order dated 25.9.2020 passed by respondent no. 4.
3. Learned counsel for the petitioner submits that the petitioner is a registered company incorporated under the Companies Act having its registered office at Darcel House, Plot No. 55 P, Institutional Area, Sector 44, Gurugram 122003, Haryana and involved in the business of transportation of goods from one place to another place. He submits that on 7.12.2019, the petitioner has booked two consignments of HR Coils from the business premises of Tata Steel Ltd. Kanpur for delivery in the State of Punjab for which H.R. Coil, Tata Steel Limited has issued Tax invoice no. 2116055357 dated 7.12.2019 for the quantity of 21.450 metric ton in the name of Tata Steel Processing Ludhiana, Punjab and Tax invoice No. 2116055358 dated 7.12.2019 for quantity of 22.40 metric ton in the name of Sangeeta Steel Corporation,

Ludhiana, Punjab. He submits that for the supply of said goods, two e-way bills were generated from the national portal and the said goods were loaded in Truck No. UP79 T 4783 but during course of journey, the vehicle developed some break down to which same was taken to the place of mechanic situated at Loha Mandi, Ghaziabad by taking assistance from Sharma Crane Service, where the vehicle got repaired by the mechanic namely Rahul Mistri, who issued

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bill no. 103 dated 12.12.2019. He further submits that during course of repair, the e-way bill was expired to which the driver never informed the parties, thereafter, the goods were on its onward journey was intercepted and seized on the ground that e-way bill was expired, however, before the seizure order could be passed, an updated e-way bill was produced but being not satisfied with the same, the goods were detained and seized and for release of the same, proceedings under Section 129 (3) was initiated in which the impugned order has been passed against which an appeal has been filed which has also been dismissed without considering the material on record.

4. Learned counsel for the petitioner submits that there is no intention for evasion of tax as the goods were accompanying with all the requisite documents but due to compelling circumstances, the vehicle could not cross the boarder / reached the destination and in the meantime, the e-way bills were expired. The said fact was duly supported by the documents but without giving any due weightage to the same, the impugned order has been passed.
5. In support of his submission, learned counsel for the petitioner has relied upon the judgements of this Court in the cases of **M/s Shyam Sel and power ltd. Vs. State of UP and others (Neutral Citation NO. 2023: AHC 191074)**, **M/s Harley Foods Products Pvt. Ltd. Vs.State of UP and others (Neutral Citation NO. 2018:AHC:70181:DB** and **M/s OSR Creation Vs. State of UP and others (Neutral Citation No. 2025:AHC:13336.**
6. Per contra, learned Additional Chief Standing Counsel supports the impugned order and submits that if for the sake of argument, the story developed by the petitioner, is accepted then it was the duty of the driver to intimate the parties about the break down of the truck and also if

transportation of the goods were delayed for more than 4 days then the parties must have contacted the transporter. He submits that even assuming without admitting that there was a break down of the truck but before start of the vehicle after its repair, the e-way bill ought to have been updated.

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7. After hearing learned counsel for the parties, the Court has perused the records.
8. It is not in dispute that the goods were being transported from Kanpur to Punjab and same was intercepted on the ground that e-way bill has been expired. The petitioner has explained the reason for delay to which supporting materials have also been brought on record but without adverting / rebutting the said evidence of truck break down, the impugned orders have been passed. The petitioner has filed supporting evidence of his stand and explained the reason of delay but without recording any cogent finding, the same has been disbelieved though all the relevant documents were accompanied with the goods in question and there was no discrepancy with regard to quality / quantity of the goods. Therefore, the intent of tax evasion is not attracted in the facts of the present case.
9. This Court in the cases of **M/s Shyam Sel and Power Ltd. (supra)**, **M/s Harley Foods Products (supra)** and **M/s OSR Creation (supra)** have categorically held that in the absence of any material with regard to evasion of tax, the proceedings under Section 129 (3) cannot be sustained.
10. In view of above, the impugned orders cannot be sustained in the eyes of law and same is hereby quashed.
11. The writ petition is **allowed**.
12. Any amount deposited by the petitioner shall be refunded to him in accordance with law.

(Piyush Agrawal,J.)

September 4, 2025

Rahul Dwivedi/-