

Court No. - 10

Case :- WRIT TAX No. - 907 of 2022

Petitioner :- M/S Pioneer Pesticides P. Ltd.

Respondent :- Additional Commissioner, Grade-2 And 2 Others

Counsel for Petitioner :- Suyash Agarwal

Counsel for Respondent :- C.S.C.

Hon'ble Rohit Ranjan Agarwal,J.

Heard Sri Suyash Agarwal, learned counsel for the petitioner and learned Standing Counsel for the State.

This writ petition has been filed assailing the order dated 20.03.2021 passed by the Additional Commissioner, Grade-II (Appeal), Commercial Tax, Muzaffarnagar in Appeal No. 0052 of 2020 and the order dated 01.07.2020 passed by the Assistant Commissioner, State Tax, Mobile Squad, Unit-1, Mathura.

Petitioner before this Court is a registered dealer under the Central Goods and Services Tax Act, 2017 (hereinafter referred as the 'Act of 2017'). The case of the petitioner is that before the goods were being transported e-way bill was generated on 13.03.2018 which was valid upto 15.03.2018; the goods were transported from Mohali to Ghaziabad and same were intercepted at Shamli on 13.03.2018 and seizure order was passed on the same day i.e. 13.03.2018 under Section 129 (1) of U.P. GST Act read with Section 20 of IGST Act.

Thereafter, a notice was issued under Section 129 (3) of the Act of 2017 for determining the tax and penalty. The said notice was replied by the assessee. A penalty order was passed under Section 129 (3) of the Act of 2017 on 01.07.2020. Against the said order, an appeal was preferred which has been rejected by the order dated 20.03.2021.

Learned counsel for the petitioner has relied upon a decision of coordinate Bench of this Court passed in **Writ-C No. 33211 of**

2018 (M/S H.B.L. Power Systems Ltd. Through Authorized Signatory Vs. State of U.P. Through Principal Secretary, Department of Tax and Registration and Others) on 27.07.2022. He contends that the case in hand is squarely covered by the said decision.

Learned Standing Counsel appearing for the State could not dispute the said fact.

Having heard learned counsel for the parties and perusing the material on record, I find that the requirement of e-way bill till 31.03.2018 was postponed by GST Council noticing the hardship faced by the assesseees. The coordinate Bench of this Court in **M/s H.B.L.Power Systems Ltd. (supra)** relying upon the recommendation of GST Council had held that there was no requirement for e-way bill till 31.03.2018.

In the present case, as the goods were intercepted by the mobile squad on 13.03.2018, the recommendation of the GST Council is applicable and there is no requirement for e-way bill till 31.03.2018. Moreover, the judgment rendered by co-ordinate Bench is applicable and the petitioner is entitled to the benefit as given by the co-ordinate Bench in **M/s H.B.L.Power Systems Ltd. (supra)**.

In view of the said fact the impugned order dated 20.03.2021 passed by the Additional Commissioner, Grade-II (Appeal), Commercial Tax, Muzaffarnagar in Appeal No. 0052 of 2020 and the order dated 01.07.2020 passed by the Assistant Commissioner, State Tax, Mobile Squad, Unit-1, Mathura, are hereby set-aside.

Writ petition succeeds and is hereby allowed.

Order Date :- 3.1.2023//Shekhar