

Court No. - 3

Case :- WRIT TAX No. - 3465 of 2025

Petitioner :- Sandeep

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Suyash Agarwal

Counsel for Respondent :- C.S.C.

Hon'ble Shekhar B. Saraf,J.

Hon'ble Praveen Kumar Giri,J.

1. Heard counsel appearing on behalf of the parties.
2. This is a writ petition under Article 226 of the Constitution of India wherein the writ petitioner has prayed for the following reliefs:-

"A. Issue a Writ, Order or Direction in the nature of Certiorari quashing order dated 09.07.2025 passed by Respondent No.3 Assistant Commissioner Commercial Tax Mobile Unit Khatauli Muzaffarnagar - u/s 129(3) of UP GST Act, 2017. (Annexure No.1).

B. Issue a writ order or directing the nature of mandamus directing Assistant Commissioner Commercial Tax Mobile Khatauli Muzaffarnagar to release the seized goods u/s 129(1)(a) of the act;

..."

3. Upon a perusal of the documents and the impugned order, it is clear that the petitioner was in possession of the goods and had produced an invoice in his reply after the show cause notice issued to him.

4. Counsel on behalf of the petitioner relies on a judgment of this Court in the case of **Halder Enterprises vs. State of U.P.** reported in **(2023)13 Centax 144 (All.)** wherein this Court had considered Circular No.76/50/2018-GST dated December 31, 2018 and held as follows:-

"9. Upon perusal of the record and after hearing learned counsel for the petitioner, we would first like to place on record the judgment passed by

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Division Bench of this Court in M/s Sahil Traders v. State of U.P. and another, 2023:/AHC:116953-DB (Coram: Hon'ble Saumitra Dayal Singh, J. and Hon'ble Rajendra Kumar-IV, J.), wherein it has been categorically held that Circular dated December 31, 2018 is applicable and when the tax invoice and the E-way bill are produced by the assessee, the goods shall be treated as belonging to the assessee, who comes before the authorities as the owner of the goods and produces the above documents. The Court further held in such cases that the security is required to be in terms of Section 129(1)(a) and not under Section 129(1)(b) of the CGST Act. The same principle has been followed by the Division Bench presided over by the then Chief Justice in M/s Sanjay Sales Agency v. State of U.P. and another, 2023:AHC:193624-DB (Coram: Hon'ble Printinker Diwaker, CJ and Hon'ble Ashutosh Srivastava, J.).

10. One may look to the relevant section before dealing with the arguments placed by the parties. The relevant portion of Section 129 of the CGST Act is delineated below:

"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 percent. 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 twentyfive 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;"

11. On a bare perusal of the judgments cited above and on first principles, it is patently clear that in the present case, goods were found with proper tax invoice and E-way bill belonging to the petitioner. Hence, Circular dated December 31, 2018 would apply and the petitioner would be deemed to be the owner of the goods. Ergo, the goods would have to be released in terms of Section 129(1)(a) of the CGST Act.

12. In light of above, the order passed by the authorities dated October 19, 2023 is quashed and set aside. The authorities are directed to carry out the

5. We have considered the arguments advanced by counsel for both the parties.
6. In the present case, there is no dispute with regard to presence of the invoice in favour of the petitioner. Furthermore, the petitioner had also produced a document being the wedding card of his niece for which purchase of silver had taken place. The Department has neither been able to disprove the validity of the invoice issued in favour of the petitioner nor the factum of marriage of the niece of the petitioner. In light of the same, we are of the view that Circular dated December 31, 2018 would apply in the present case and the goods should be released in terms of Section 129(1)(a) of the Uttar Pradesh Goods and Services Tax Act, 2017.
7. Accordingly, the order dated July 9, 2025 is quashed and set-aside with a direction upon the authorities to carry out the exercise in terms of Section 129(1)(a) of the Uttar Pradesh Goods and Services Tax Act, 2017 within a period of three weeks from date and thereafter release the goods to the petitioner upon payment of the penalty imposed under the provisions of the above section.
8. With the above directions, the writ petition is disposed of.

Order Date :- 12.8.2025

Rakesh

(Praveen Kumar Giri J.) (Shekhar B. Saraf, J.)