

Court No. - 3

Case :- WRIT TAX No. - 2596 of 2025

Petitioner :- M/S Tirupati Agro Commodities,

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Vedika Nath, Yashonidhi Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Shekhar B. Saraf, J.

Hon'ble Praveen Kumar Giri, J.

1. Heard learned counsel for the parties.
2. This is an application under Article 226 of the Constitution of India, wherein the writ petitioner is aggrieved by an order dated 08.05.2025 passed by respondent no. 2, wherein the authority concerned has imposed penalty under section 129(3) of Uttar Pradesh Goods and Service Tax Act, 2017.
3. Upon perusal of the impugned order, it is clear that the penalty has been imposed on the ground of misclassification of the goods.
4. The learned Single Judge of this Court has already held in **Shamhu Saran Agarwal and Company Versus Additional Commissioner Grade, reported in [2024] 160 Taxmann.com 151 (Allahabad)**, that the penalty under section 129 of U.P. GST Act cannot be imposed on mere speculation of undervaluation. The authorities are required to proceed under section 73 or 74 of the U.P. GST Act.
5. In the present case, the goods were accompanied by the relevant documents such as the invoice and e-way bill etc. and there is no dispute with regard to the value of the goods. The only dispute is with regard to classification of the goods.
6. In our view, the imposed penalty in the present case is without any basis in law.
7. Accordingly, the impugned order dated 08.05.2025 passed by respondent no. 2, is quashed and set aside.
8. Consequently, we reached to follow that any penalty deposited by the petitioner would be refunded within a period of eight weeks

from the date.

9. With the aforesaid directions, the writ petition is allowed.

Order Date :- 10.7.2025

K.K. Maurya

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