

**A.F.R.**

Neutral Citation No. - 2025:AHC:21395

**Court No. - 2**

**Case :-** WRIT TAX No. - 830 of 2024

**Petitioner :-** M/S Zhuzoor Infratech Private Limited

**Respondent :-** Additional Commissioner Grade 2 And Another

**Counsel for Petitioner :-** Nitin Kumar Kesarwani,

**Counsel for Respondent :-** C.S.C.

**Hon'ble Piyush Agrawal,J.**

1. Supplementary affidavit filed today, is taken on record.
2. Heard Mr. Nitin Kumar Kesarwani for the petitioner and Mr. Ravi Shanker Pandey, learned ACSC for the State- respondents.
3. By means of present petition, the petitioner is assailing the order dated 23.1.2024 passed by Additional Commissioner, Grade -02 (Appeal ) -V, State Tax Kanpur, respondent no. 1 and the order dated 20.12.2022 passed by Assistant Commissioner, Sector 2 (Mobile Squad-4), Kanpur, respondent no. 2.
4. Learned counsel for the petitioner submits that the petitioner is a registered dealer having GSTIN No. 19AACZ8741R1ZA and in the normal course of business, the petitioner has received an order from Krishna Constellation Pvt. Ltd. New Delhi for the supply of 16 mm TMT Bar. In pursuance of the said order, the petitioner approached one of the manufacturer namely Rungta Mines Limited, Jharkhand and placed the said order with specific direction that bill is to be issued in favour of the petitioner but delivery of shipment was made at New Delhi party. Thereafter the e-tax invoice as well as e-way bill were generated.
5. He submits that while generating, the e-tax invoice, the e-way bill was auto-populated, in other words, the contents of e-tax invoice was automatically filled by the system created by the GST portal in the e-way

bill. He submits that the goods in question were accompanying with tax invoice, e-way bill and consignment note, however, during in onward journey from Jharkhand to New Delhi, same were intercepted by the respondent authority on the ground that in the e-way bill at the place of shipping address, the address of West Bengal is mentioned, (address of the petitioner) however in the tax invoice shipping address of New Delhi was mentioned, therefore, the present proceedings were initiated against the petitioner and penalty order was passed. He submits that e-way bill is electronically generated by the GST portal and said fact is specifically mentioned in paragraph no. 5 and 6 of the writ petition, which has not been denied by the respondents. He further submits that there is neither any difference or variation in the goods in question as mentioned in the tax invoice nor in the quantity or quality of the same is otherwise but merely on the ground of technical defect as mentioned above, the proceedings have been initiated against the petitioner, which are not justified.

6. He further submits that the purpose of e-way bill is only that the department should come to know about the movement of any goods from one place to another place so that transaction in question may not escape levy of tax, if any, at the time of passing of the original assessment order. He prays for allowing the present writ petition.

7. *Per contra*, learned ACSC supports the impugned orders and submits that proceedings have rightly been initiated.

8. After hearing learned counsel for the parties, the Court has perused the records.

9. It is not in dispute that the goods in question was intercepted, detained and seized during its onward journey from Jharkhand to New Delhi on the technical ground that in place of shipping address, the address of West Bengal was mentioned but in the e- tax invoice, the same is mentioned as New Delhi. However no other discrepancy whatsoever

was pointed out in respect of quantity or quality of the goods as mentioned in the e-tax invoice. It is specifically mentioned in the writ petition that at the time of generating the e-tax invoice, the system has auto-populated the e-way bill after taking details from the e-tax invoice. This fact has specifically been mentioned in paragraph nos. 4 and 5, which has not been denied in the counter affidavit filed by the State in paragraph no. 9. Once the auto populated details was fetched by the system from e-tax invoice created by the GST portal in the e-way bill, no adverse inference can be drawn against the petitioner.

**10.** Further, if the place of shipment is wrongly filled up, then it is merely a technical error provided if no other defect is found in the e-tax-invoice as well as e-way bill in respect of quality or quantity of the goods at the time of physical verification, therefore, no adverse view be drawn against the petitioner.

**11.** The Court is of the opinion that e-way bill is the document which is generated and accompanying the goods in transit, so that department may come to know about the movement of goods from one place to another place. So that at the time of passing final assessment, the particular transaction may not escape from levy of tax as per the prevalent provisions, under the GST Act.

**12.** Further, the e-way bill can be cancelled within its validity as provided under the Act. The case in hand, the e-way bill was automatically generated on 14.12.2022, which was valid up to 16.12.2022. In the present case, the e-way bill has not been cancelled within its validity, therefore, no adverse view can be taken against the petitioner that if the goods were not intercepted, transaction in question could have escape to assessment.

**13.** This Court in the case of **M/s Sun Flag Iron and Steel Company Limited Vs. State of UP and others**; Neutral Citation No. 2023:AHC:215906 has held that the purpose of e-way bill is that the

department should know the actual movement of the goods and once the e-way bill is not cancelled within the prescribed period, the genuineness of the transaction cannot be questioned.

Relevant paragraph of the said judgement is quoted hereunder:

*11. Under the G.S.T. regime, all the details are available on the G.S.T. portal and it is admitted that e-tax invoice was raised and e-way bill was generated and the same was not cancelled within 24 hours as provided under the Act. Once the said fact is not disputed and the petitioner has not exercised its right either to withdraw the tax invoice or e-way bill in question, it was well within the knowledge of the department that movement of the goods in question has been undertaken by the petitioner. Merely on the technical ground that e-way bill accompanying with the goods in question was expired on 1.6.2023 whereas the vehicle had been intercepted in the intervening night of 2/3.6.2023.*

*12. The purpose of e-way bill is that the department should know the movement of goods. Once the e-way bill has been generated and same has not been cancelled by the petitioner within the time prescribed under the Act, the movement of goods as well as genuineness of transaction in question cannot be disputed. ....*

**14.** Thus, merely on technical ground that in the e-way bill accompanying with the goods in question, the place of shipment has wrongly been mentioned, the seizure or levy of penalty cannot be made.

**15.** In view of aforesaid fact and circumstances of the case, the proceedings initiated against the petitioner is not justified in the eyes of law.

**16.** In the results, the writ petition succeeds and is **allowed**. The impugned order dated 23.1.2024 passed by Additional Commissioner, Grade -02 (Appeal ) -V, State Tax Kanpur, respondent no. 1 and order dated 20.12.2022 passed by Assistant Commissioner, Sector 2 (Mobile Squad-4), Kanpur, respondent no. 2, are hereby quashed.

**17.** Any amount deposited by the petitioner in the present proceedings shall be refunded to him, in accordance with law, expeditiously, preferably within a period of two months from the date of producing a certified copy of this order.

**Order Date :-** 14.2.2025

Rahul Dwivedi/-