

WPMS No.385 of 2019

Hon'ble Lok Pal Singh, J.

Mr. V.B.S. Negi, Senior Advocate assisted by Mr. Ankush Negi, Advocate for the petitioner.

Mr. V.K. Kaparuwan, Standing Counsel for Union of India-respondent no.1.

Mr. Anurag Bisaria, Standing Counsel for the State.

Heard.

By means of present writ petition, petitioner seeks to quash the order of seizure of the vehicle in question bearing no.UK 06-0706 having chasis no. MB1KACHD2KPJG9885 passed by respondent no.3 vide GST MOV-06/MOV-07.

Admit.

Counter affidavit be filed within four weeks.

List thereafter.

Also heard on the stay application.

It is the contention of learned senior counsel that the vehicle of the petitioner has been seized by respondent no.3 thereby imposing a penalty of Rs.5,03,125/- equal to the IGST (the tax amount) on the technical ground that the validity of e-way bill had expired on 03.02.2019. It is the contention of learned Senior Counsel that the Company had generated a fresh e-way bill on 06.02.2019 which was valid upto 12.02.2019 in continuation of the previously generated e-way bill, which stood expired on 03.02.2019, still impugned order of imposing penalty as well as seizure of vehicle has been passed.

Learned Senior Counsel would invite attention of this Court to the provisions of Section 129(1)(c) of The Central Goods and Services Tax Act, 2017, which reads as under:

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 per cent 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 twenty five 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;

(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:

Having considered the submissions of learned counsel for the parties, as an interim measure, it is directed that the vehicle of the petitioner shall be released forthwith provided the petitioner furnishes a security before the authority concerned as per the provisions contained under clause (c) sub-section (1) of Section 129 of The Central Goods and Services Tax Act, 2017. (Interim relief application no.1883 of 2019 is disposed of).

(Lok Pal Singh, J.)

15.02.2019

Rajni