

Court No. - 5

Case :- WRIT TAX No. - 4 of 2022

Petitioner :- Vriddhi Infratech India Pvt. Ltd. Thru. Authorised Signatory Anne Sandeep, Project Director

Respondent :- Commissioner, Commercial Tax U.P. Lucknow And 2 Others

Counsel for Petitioner :- Manish Singh

Counsel for Respondent :- C.S.C.

Hon'ble Vivek Chaudhary, J.

Heard learned counsel for the petitioner and the learned Standing Counsel.

The petitioner has filed the present petition challenging the order dated 4.6.2021 passed under Section 61 and Section 74 of the GST Act, 2017 and the order dated 26.10.2021 whereby the appeal filed by the petitioner is also dismissed. He has also sought mandamus directing the respondents to adjust the GST amount deposited by the petitioner in the financial year 2018-19, which inadvertently could not be deposited in the financial year 2017-19, in accordance with the circular dated 31.12.2018 as well as provisions of Section 39(9) of the GST Act, but deposited by the petitioner in the month of June 2018 i.e. financial year 2018-19.

Facts of the case are that a notice dated 23.6.2020 under Section 61 was served upon the petitioner, claiming that in annual return filed in the form GSTR-09 dated 30.1.2020, he has shown his turnover as 129.52 lakhs which does not tally with his Bank Statement.

Learned counsel for the petitioner submits that very basis of the notice is wrong inasmuch as in his GSTR-9, the turnover of an amount 129.52 lakhs is shown as only with regard to supply made to unregistered persons i.e. under B2C category.

It appears that the authority concerned has failed to take into consideration the entire form which at its end shows a total turnover of Rs.20,37,13,502.00 lakhs through GSTR-9 in the financial year 2017-18, which is filed as Annexure No.08 to the

writ petition.

Learned Standing Counsel, on instructions, could not dispute that the GSTR-9 dated 30.1.2020 is the only GSTR-9 form submitted by the petitioner and also could not dispute the figures provided therein.

In view thereof, both the assessing authority as well as the appellate authority have committed the said misreading of GSTR-9, hence both the impugned orders cannot stand and are set aside.

The respondents are directed to adjust the amount of GST deposited by the petitioner.

The security amount deposited under the interim order is released in favour of the petitioner.

The writ petition is ***allowed***.

(Vivek Chaudhary,J.)

Order Date :- 23.2.2023

Arjun/-