

Court No. - 36

Case :- WRIT TAX No. - 403 of 2021

Petitioner :- M/S Ranchi Carrying Corporation

Respondent :- Additional Commissioner Grade-2 And 2 Others

Counsel for Petitioner :- Suyash Agarwal

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Heard Shri Suyash Agarwal, learned counsel for the petitioner and Shri B.K. Pandey, learned Additional Chief Standing Counsel for the respondents.

By means of present writ petition the petitioner has sought for quashing of the impugned order dated 31.3.2021 passed by the first respondent in Appeal No.KNP-3/GST/010/2021 Year 2020- 21 under Section 129 (3) of UPGST 2017 as well as the order dated 30.1.2021 passed by the second respondent under Section 129 (3) of UPGST 2017.

It appears from the record that earlier the petitioner approached to this Court by preferring Writ Tax No.655 of 2020 (Ranchi Carrying Corporation vs. State of UP and 2 others) assailing the validity of the order dated 05.08.2020 passed in Appeal No.KNP3/GST/055/2020 Assessment Year 2019-20 under the provisions of section 130 of U.P. Goods and Services Tax Act in relation to the goods as well as the order dated 23.01.2020 Form GST MOV-09 related to goods. The aforesaid writ petition was disposed of by this Court on 07.12.2020 with following observations:-

"A perusal of the impugned order shows that at no point of time, was the petitioner granted an opportunity of submitting his reply and the grounds taken by the petitioner before the Appellate Authority were not considered recording them to be an afterthought. Thus, on a plain reading, a failure of natural justice has been occasioned to the petitioner.

Accordingly, the order dated 31.8.2020 and the order dated 23.1.2020 are set aside with a liberty to the respondents to conclude proceedings against the petitioner, in accordance with law.

As the notices have now been served upon the petitioner, the petitioner shall file a fresh reply to the same within a period of three weeks and the respondents shall pass fresh orders, as expeditiously as possible, preferably within a period of four weeks from the date of filing of the objections, in accordance with law."

In pursuance of the aforesaid order, the investigating officer issued a show cause notice to the petitioner and after being dissatisfied with the reply given in response of the show cause



notice, the impugned order dated 30.1.2021 was passed by the second respondent under Section 129 (3) of UPGST 2017 imposing tax and penalty of Rs.12,64,529/- on the petitioner. The said order was subjected to challenge in the aforesaid Appeal and the Additional Commissioner Grade-W (Appeal) Third, Commercial Tax, Kanpur/Appellate Authority has proceeded to pass the impugned order dated 31.3.2021, whereby the Appeal No.KNP- 3/010/2021 year 2010-21 preferred by the petitioner has been rejected.

By the impugned orders the authorities below have rejected the claim of the petitioner on the ground that the details mentioned in the invoices at serial nos.1 to 9 are not matching with the verifying sheets available with the mobile squad. This much is also clearly reflected from the record that the petitioner has transported the goods in violation of Rule 138. The findings have been recorded by the authorities below that it was fraudulently done and the penalty was also levied on the petitioner.

Learned counsel for the petitioner could not point out any error in the impugned orders.

The Court does not find any merit in the writ petition.

The writ petition is dismissed accordingly.

Order Date :- 2.8.2021

RKP

