

Court No. - 38

Case :- WRIT TAX No. - 258 of 2022

Petitioner :- M/S Shanu Events

Respondent :- State Of U P And 2 Others

Counsel for Petitioner :- Tanmay Sadh, Aishwarya Pratap Singh

Counsel for Respondent :- C.S.C.

Hon'ble Saumitra Dayal Singh, J.

1. Heard Shri Tanmay Sadh, learned counsel for the petitioner and Shri Neeraj Kumar Singh, learned Standing Counsel for the State.

2. Present petition has been filed by the petitioner against the order of the appellate authority dated 5.3.2021 in appeal no. 05/2021 for A.Y. 2020-21 (U.P.) arising from proceeding under Section 129(3) of the U.P. Goods and Services Tax Act, 2017 (hereinafter referred to as the Act). By that order, the first appeal authority has dismissed the appeal and confirmed the order dated 28.12.2020 imposing tax Rs. 2,16,000/- and equal amount of penalty, totaling Rs. 4,32,000/- on the petitioner.

3. Present petition has been entertained and is being decided upon exchange of affidavits as no Tribunal has been constituted till date.

4. Having heard learned counsel for the parties and having perused the record, it transpires, there is no doubt to the fact that the petitioner is an event management firm having its head office at Katni, Madhya Pradesh. It is also not in dispute that the petitioner was awarded some contract at Kumbh Mela, Haridwar, in the State of Uttarakhand. For that purpose, it was transporting LED panels on truck bearing registration no. HR-55-V-5014. While in transit through State of U.P., the vehicle was stopped for inspection. It was found accompanying with the e-way bill disclosing transportation of LED panels from the petitioner's place of business at Katni to the petitioner's other place of business at Haridwar, Uttarakhand.

5. Perusal of the e-way bill reveals, the petitioner made an inadvertent error in applying for the e-way bill. After

mentioning the place of shipment to "Kumbh Mela, Haridwar, Uttarakhand", the words "Madhya Pradesh - 483501" were filled up. The address having been thus wrongly filled up and the pin code having been filled up of Katni, Madhya Pradesh, the software was forced to commit an error by filling up the destination of transportation to 100 kms though it should have auto-generated that field, at about 1000 kms. Prompted by that, the software then generated the validity period of the e-way bill to one day. It thus expired on 24.12.2020. Occasioned solely by that occurrence, goods were seized, tax and penalty demanded.

6. In view of such facts, there appears no doubt to the genuineness of the explanation furnished by the assessee that the mistake was inadvertent. Once the assessee had disclosed the place of shipment at Haridwar, Uttarakhand, there survived no occasion to fill up the place of destination at Madhya Pradesh with the pin code of the petitioner's office at Katni, Madhya Pradesh. Clearly, the mistake was *bonafide* as sometime occurs.

7. In absence of any allegation or material found of ill-intent on part of the assessee to transport the goods for the purposes of sale, the imposition of tax and demand of penalty is wholly unfounded. The goods are old. The breach was technical and not real.

8. In view of the above, the order dated 28.12.2020 passed under Section 129(3) of the Act and the appeal order dated 5.3.2021 found to be perverse and are set aside. Let the amount of security and penalty that may have been deposited by the petitioner-assessee, may be returned to it, in accordance with law.

9. Accordingly, the present petition is **allowed**.

Order Date :- 5.8.2022/Prakhar