

**Court No. - 1**

**Case :-** WRIT TAX No. - 7 of 2020

**Petitioner :-** M/S Abhishek Sales

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Shubham Agrawal

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

**Hon'ble Shekhar B. Saraf, J.**

1. Heard learned counsel appearing on behalf of the parties.
2. This is a writ petition under Article 226 of the Constitution of India wherein the petitioner is aggrieved by the order dated December 29, 2018 passed by the respondent No.3 under Section 129(3) of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as 'the Act') and the subsequent order dated December 10, 2019 passed in appeal by the respondent No.3.
3. Mr. Subham Agrawal, counsel appearing on behalf of the petitioner submits that in the present case, the vehicle was changed in route and when the said change took place, the transporter uploaded and changed the new vehicle number in Part-B of the e-way bill. He further submits that the authorities intercepted the goods and imposed penalty on the following grounds:-
  - (i) The bilty and the invoice that were accompanying the goods reflected the erstwhile truck number that has been used in the first part of the transportation.
  - (ii) The Private Marka mentioned in the bilty was not specifically mentioned in the bags carrying the goods.
5. It is to be noted that the goods were in order and the e-way bill was also as per the goods that were being transported.

6. Upon perusal of the documents, it is clear that Part-B of the e-way bill has been changed due to change of the vehicle. It is obvious that when a vehicle is changed, the number in the bill could not be changed as the goods were in transit. Consequently, the first ground is baseless and is rejected out rightly.

7. The second ground that private marka was not mentioned in the bags carrying the goods does not in any manner raise a presumption of evasion of tax.

8. In light of the above, the impugned orders are without any basis in law and are accordingly quashed and set-aside. Consequential reliefs to follow. Any amount that has been deposited by the petitioner is directed to be refunded to him within a period of four weeks from date.

9. The writ petition is, accordingly, allowed.

**Order Date :- 23.2.2024**

Rakesh

(Shekhar B. Saraf, J.)

