

Court No. - 36

Case :- WRIT TAX No. - 684 of 2024

Petitioner :- M/S Rs Industrial Solutions

Respondent :- Additional Commissioner Grade 2 And Another

Counsel for Petitioner :- Aditya Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal,J.

1. Heard Sri Aditya Pandey learned counsel for the petitioner and Sri Ravi Shanker Pandey, learned Additional Chief Standing Counsel for the respondents.

2. This is a writ petition under Article 226 of the Constitution of India wherein the petitioner is aggrieved by the order dated 29.2.2024 passed in appeal. The original order imposing the penalty was passed on 22.5.2023.

3. The basis of the original order and the order passed in appeal for imposing penalty was that Part-B of the e-way bill was not filled up.

4. Learned counsel for the petitioner submits that the issue in hand has already been covered by the judgment and order dated January 16, 2024 passed in Writ-Tax No.937 of 2022 (M/s Roli Enterprises vs. State of U.P. and others) in which it has held that non filling of Part-B of the e-way bill, without any proof of intention to evade tax, would not lead to imposition of penalty.

5. Learned Additional Chief Standing Counsel does not dispute the said fact and submits that this writ petition may be disposed of at the admission stage without calling counter affidavit.

6. In the present case, the facts are quite similar to one in M/s Roli Enterprises' case (supra) and I see no reason why this Court should take a different view of the matter, as the invoice itself contained the details of the vehicle and the error committed by the petitioner was of a technical nature only and without any intention to evade tax. Once this fact has been substantiated, there was no requirement to levy

penalty under Section 129(3) of the Act.

7. In light of the above, the orders dated 22.5.2023 and 29.2.2024 are quashed and set-aside. The writ petition is allowed. Consequential reliefs to follow.

Order Date :- 2.5.2024

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