

Court No. - 1

Case :- WRIT TAX No. - 240 of 2020

Petitioner :- M/S Hira Lal Arun Kumar Through Its Proprietor Arun Kumar Jain

Respondent :- State Of U.P. Through Its Principal Secretary, Institutional Finance, Government Of U.P And 2 Other

Counsel for Petitioner :- Vishwjit

Counsel for Respondent :- C.S.C.

Hon'ble Shekhar B. Saraf,J.

(Judgement dictated in Open Court)

1. Heard Sri Vishwjit, learned counsel for the petitioner and learned Standing Counsel for the revenue.

2. Challenge has been raised to the order dated April 26, 2019 passed by the respondent no.2, Additional Commissioner Grade-II (Appeal)-I, Commercial Tax, Saharanpur, under Section 107(4) of U.P. GST Act, 2017 and also the order dated March 20, 2018 passed by respondent no.3, Assistant Commissioner Incharge (Mobile Squad Unit-II), Saharanpur.

3. By the impugned order dated March 20, 2018, penalty has been imposed with respect to the goods being transported without e-way bill under U.P. GST Act, 2017 read with Rules framed thereunder.

4. Relying on a decision of Division Bench of this Court in **M/s Godrej and Boyce Manufacturing Co. Ltd vs State of U.P. and others** reported in **2018 U.P.T.C.[Vol.100]-1206**, it

has been submitted, during the period 01.02.2018 to 31.03.2018 the requirement of e-way bill under U.P. GST Act read with Rules framed thereunder was unenforceable. Therefore, neither seizure of goods was justified nor can the penalty be sustained. Also, the petitioner's appeal against the order dated march 3, 2018 came to be dismissed on account of delay beyond the period eligible for condonation of delay.

5. Having heard the learned counsel for the parties and perused the record, so far as the matter is squarely covered by a decision of Division Bench of this Court in **M/s Godrej and Boyce Manufacturing Co. Ltd (supra)**, with which we are in agreement, the present writ petition is allowed. The impugned order dated April 26, 2019 and also the order dated March 20, 2018 are hereby quashed.

6. Any amount deposited by the petitioner may be refunded in accordance with law within a period of one month.

Order Date :- 30.1.2024

Dev/-

(Shekhar B. Saraf,J.)