

## **Chief Justice's Court**

**Case :-** WRIT TAX No. - 67 of 2025

**Petitioner :-** M/s Hundal Traders

**Respondent :-** State of U.P. and another

**Counsel for Petitioner :-** Ravindra Kumar Rastogi

**Counsel for Respondent :-** Ankur Agarwal (S.C.)

**Hon'ble Arun Bhansali, Chief Justice**

**Hon'ble Kshitij Shailendra, J.**

1. This petition has been filed by the petitioner aggrieved of the action of State Tax Officer ('STO') (Mobile Squad)-3, Saharanpur in initiating the proceedings under Section 20 of the Integrated Goods and Services Tax Act, 2017 (for short 'IGST Act') and Section 129 of Central Goods and Services Tax Act, 2017 (for short 'CGST Act') and passing order dated 08.10.2024 (Annexure-7) imposing penalty under Section 129(1)(a) of the CGST Act to the tune of Rs. 92,452/-.

2. Counsel for the petitioner has raised two legal questions pertaining to the power to initiate proceedings under Section 129 of the CGST Act for purported violation of Rule 86B of CGST Rules, 2017. Further issue has been raised regarding jurisdiction of STO to initiate proceedings/pass order in the light of Circular No. 3/3/2017-GST dated 05.07.2017 issued by Central Board of Excise and Customs (Annexure-10) wherein the power in relation to Section 129(3) of the CGST Act has been conferred on Deputy or Assistant Commissioner of Central Tax.

3. Though, a counter affidavit has been filed by the respondents, the same does not answer the issues raised, particularly regarding the power of STO as the relied on Office Order dated 01.07.2017 pertains to the power under UPGST Act, 2017 whereas the

Circular relied on by the petitioner pertains to the power under CGST Act and the order impugned has been passed under Section 20 of IGST Act read with Section 129 of the CGST Act.

4. Further the petitioner has also questioned the applicability of Rule 86B of the Rules to the circumstances of the case in para-15 of the petition by relying on the proviso (d) to the Rule 86B of the Rules, as amended by Notification No. 94/2020 dated 22.12.2020, to which no answer has been given. Only a cursory reply to para 14 to 18 in para-10 of the counter affidavit has been given, which does not answer the factual aspect.

5. In view of the above fact situation, respondents are directed to file a supplementary counter affidavit clarifying the issues, as noticed hereinbefore, with precision.

6. Needful may be done before the next date.

7. List on 14.05.2025.

**Order Date :- 10.4.2025**

P.Sri./RK

(Kshitij Shailendra, J) (Arun Bhansali, CJ)