2025:AHC:151426

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 1558 of 2022

M/S Mohini Traders, Gandhi Nagar, Aligarh

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Vishwjit
Counsel for Respondent(s)	:	C.S.C.

With

WRIT TAX No. - 1577 of 2022

M/S Mohan Agencies

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Vishwjit
Counsel for Respondent(s)	:	C.S.C

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Shri Vishwajit, learned counsel for the petitioner and Shri Ravi Shankar Pandey, learned ACSC for the State - respondents.

2. Since learned counsel for the parties submit that the issues involved in these writ petitions are similar, therefore, the same are being decided by the common order. With the consent of the parties, Writ Tax No. 1558 of 2022 is taken as a leading case for deciding the controversy involved in these writ petitions.

WRIT TAX No. - 1558 of 2022

3. The instant writ petition has been filed against the impugned order dated 23.02.2021 passed by the respondent no. 2 as well as the impugned order dated 11.01.2020 passed by the respondent no. 3.

4. Learned counsel for the petitioner submits that the petitioner is duly registered under the GST Act. He further submits that the goods were in transit from Aligarh, when the same were intercepted on 10.01.2020 at 07.53.57 Hrs. at Jalalpur, Aligarh. He further submits that immediately thereafter, e-way bill was produced, which shows that there was no intention to evade payment of tax, but still the goods were seized on 11.01.2020 and proceedings under section 129(3) of the GST Act were initiated against the petitioner. After deposit of tax and penalty, the goods were released. Thereafter, the petitioner preferred appeal, which was rejected vide impugned order dated 23.02.2021. He further submits that the issue in hand is squarely covered by the judgement of this Court in ***Axpress Logistics India Private Limited Vs. Union of India & 3 Others*** [Writ Tax No. 602/2018, decided on 09.04.2018].

5. Per contra, learned ACSC supports the impugned orders and submits that at the time of interception, no e-way bill was produced, but it was produced subsequently. He further submits that the e-way bill was generated after interception of the goods, i.e., on 10.01.2020 at 01.19 p.m., much after the time of interception. In support of his submission, he has placed reliance on the judgement of the Division Bench of this Court in ***M/s Aysha Builders & Suppliers Vs. State of U.P. & Another*** [Writ Tax No. 2415/2024, decided on 24.01.2025].

6. After hearing learned counsel for the parties, the Court has perused the record.

7. It is not in dispute that at the time of interception of the goods, e-way bill was not produced and the same was produced before passing of the seizure order and the penalty order, but it is admitted that the e-way bill was not generated immediately after the movement of the goods and the same was generated at 1.19 p.m., much after the interception of the goods, which is evident from the MOV 06 and therefore, the issue in hand is covered by the decision of the Division Bench of this Court in ***M/s Aysha Builders & Suppliers*** (supra).

8. In view of the aforesaid facts & circumstances of the case, no interference is called for in the impugned orders.

9. The writ petitions fail and the same are hereby dismissed.

(Piyush Agrawal,J.)

August 28, 2025
Amit Mishra