UKHC010120922026

2026:UHC:5761-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA

AND

HON'BLE SRI JUSTICE SUBHASH UPADHYAY

15TH JULY, 2026

WRIT PETITION (M/S) NO. 3268 OF 2023

Kamlesh Kumar ……Petitioner.

Versus

State Tax Officer ….Respondents.

Counsel for the Petitioner	:	Mr. Rohit Arora, learned counsel.
Counsel for the State	:	Ms. Puja Banga, learned Standing Counsel.

JUDGMENT :(per Mr. Manoj Kumar Gupta, C.J.)

1. The present writ petition has been filed assailing the order dated 10.09.2023, passed by the respondent imposing penalty of Rs.10,67,450/- on the petitioner in exercise of power under Section 129 of the CGST/ SGST Act, 2017 read with Section 20 of the Integrated Goods and Services Tax Act, 2017.

2. The case of the Department is that it intercepted vehicle No.HR 66C 7016 carrying aluminum roofing sheet (HSN Code 7606) at Rampur Road near Rudrapur on 09.09.2023 at 08:30 AM and upon enquiry, the vehicle driver produced the following documents:-

"(1) Tax Invoice No.32/(23-24) Date 6-9-2023 Rs.2193075-00
(2) Eway bill No. 201643090175 Date 6-9-2023
(3) Tax Invoice No. 33/(23-24) Date 6-9-2023 Rs.772065-00
(4) Eway bill No. 281643148449 Date 6-9-2023."

3. It transpired therefrom that there was mismatch in the details of e-way bills mentioned on the invoice and the e-way bill produced by the driver. It is stated that in the tax invoice, instead of mentioning the number of e-way bill as “32/(23-24)”, it was mentioned as “32”, and in place of e-way bill No. “33/(23-24)”, it was mentioned as “33”.

4. Learned counsel for the petitioner has submitted that the Central Board of Indirect Taxes and Customs had issued a circular on 14th September, 2018 and wherein it clarified that in cases of inadvertent mistakes and typographical errors in the documents, penalty to the tune of Rs.500/- each under Section 125 of CGST Act and respective SGST Act should be imposed. He submits that it was a case of human error and not where Section 129 could have been invoked.

5. Learned counsel for the petitioner places reliance on the judgment of this Court dated 27.04.2022 in Writ Petition (M/S) No.1969 of 2021, ***“M/s Sonal Automation Industries vs. State of Uttarakhand & others”***, which was also a case of mismatch of e-way number on the tax invoice. The Court, relying on the same circular, held that powers under Section 129 could not have been invoked in the circumstances of the said case. The relevant

observations are as follows:-

> *"8. This Court is of the view, that the implications of Clause 5 of the Circular, has to be rationally and logically construed and when the revenue was conscious, that a minor error may creep in while furnishing the e-way bill and those minor discrepancies are to be overlooked and Section 129, is not to be even invoked invariably, under all the circumstances, where it does not affect the financial implications or the liabilities, which has to be fastened upon the assessee under the Taxing Laws.*
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> *9. The Sub-clauses referred therein to Clause 5, has to be rationally construed and once the exception of mistake is considered to be excused under Clause 5 of the Circular of 14th September, 2018, and looking to the nature of the error, which has crept in, in the instant case, I am of the view, that since it was not backed with a clever intent to deceive the State of the revenue, and particularly, when the other figures or entries provided by the petitioner by submission of the eway bill to the respondents/revenue, it contained all the other particulars, which were correct and corresponding to the details provided in the tax invoice, in fact, there was no apparent intention, as such to deceive the State with the revenue and hence, the error which has crept in giving the invoice number would fall to be within an exception Clause 5 of the Circular of 14th September, 2018."*

6. We have examined the documents placed on record as well as the explanation given by the petitioner in response to the show-cause notice and we find that it was case of human error and even the Revenue could not point out how, as a result of said mistake, any benefit has accrued to the petitioner or he had avoided payment of any tax.

7. In Paragraph No.7 of the counter-affidavit, the Department has admitted that the goods were found as per the declaration in the e-way bill and the documents which were being carried at the time of transportation of the

goods.

8. In such circumstances, the impugned order cannot be sustained and is, hereby, quashed.

9. The writ petition succeeds and is allowed. The amount deposited by the petitioner in pursuance of the impugned order shall be refunded to him after deducting the penalty as per clause 5 of the circular dated 14th September, 2018.

10. Pending application, if any, also stands disposed of.

MANOJ KUMAR GUPTA, C.J.

SUBHASH UPADHYAY, J.

Dated: 15th July, 2026
NISHANT

NISHANT KUMAR