

Court No. - 2

Case :- MISC. BENCH No. - 34650 of 2019

Petitioner :- Shri Vajid

Respondent :- State Of U.P.Thru.Finance Secy.Ministry Of Finance & Ors.

Counsel for Petitioner :- N.C.Gupta,Manish Nigam,Tushar Kant Gupta

Counsel for Respondent :- C.S.C.

Hon'ble Munishwar Nath Bhandari,J.

Hon'ble Manish Kumar,J.

1. By this writ petition, a prayer is made for release of vehicle bearing U.P.-32 CN-5694 ceased by the respondents. It is when the vehicle carrying goods were found to be carried in violation of the U.P. Goods and Services Tax Act, 2017(for short 'Act of 2017'). The petitioner is the vehicle owner and appeared before the competent authority with a request to release the vehicle.

2. The prayer made by the petitioner was not accepted by the respondents and accordingly and in absence of the payment, the vehicle could not be released. The amount demanded by the respondents is huge. It cannot be satisfied by the petitioner thus, he is unnecessarily suffering on that count.

3. The prayer is to cause interference in the impugned order with a direction to release the vehicle.

4. The written instructions given to the Standing Counsel are being placed before this court and are taken on record.

5. It is submitted that the petitioner was required to prove that whatever goods were carried in the vehicle, were without his knowledge.

6. Burden lies on the owner of the vehicle to prove his innocence however while a counsel appeared on behalf of the petitioner, no proof was produced to show that the goods carried in the vehicle was without his knowledge. Thus, an order for release of the vehicle could not be passed.

7. We have considered the submissions made by learned counsel for the parties and perused the record so as the provisions of the Act of 2017.

9. It is a case where a vehicle alongwith goods were seized when it was found carrying goods in violation of the Act of 2017. The petitioner alongwith owner of the goods was served with the notice before seizure of the goods. The petitioner is the owner of the vehicle but he failed to prove that he had no knowledge about the goods carried in the vehicle so as to discharge his burden as otherwise envisaged under the Act of 2017. In absence of discharge of burden by the owner of the vehicle, an order for release of vehicle could not be passed and we do not find any illegality in the order.

10. However, while disposing of the writ petition, liberty is given to the petitioner to again approach the authority with defence, as available to prove his innocence. In that case, the matter would be heard afresh and dismissal of the writ petition would not come in the way of the petitioner for the aforesaid.

11. The writ petition is disposed of with the aforesaid.

Order Date :- 23.1.2020

Shukla