

प्रेषक,

आयुक्त. राज्य कर,

उत्तर प्रदेश, लखनऊ।

सेवा में,

अपर आयुक्त, राज्य कर, गौतमबुद्धनगर, जोन-नोएडा।

समस्त अपर आयुक्त ग्रेड-1, राज्य कर, उ०प्र०।

समस्त अपर आयुक्त ग्रेड-2, राज्य कर, उ०प्र०।

(वाद-अनुभाग)

लखनऊ::दिनांक:: 19 मार्च, 2025

महोदय,

कृपया मा० उच्च न्यायालय, इलाहाबाद में दाखिल रिट टैक्स संख्या-57/2021 सर्वश्री Famus India बनाम स्टेट ऑफ यू०पी० व 3 अन्य में पारित निर्णय का सन्दर्भ ग्रहण करने का कष्ट करें, जिसके द्वारा दिनांक-10/03/2025 (प्रति संलग्न) को पारित निर्णय के माध्यम से व्यापारी की रिट याचिका को डिसमिस कर दिया गया है। मा० उच्च न्यायालय ने पारित निर्णय में माना है कि जाब वर्क हेतु माल के परिवहन के समय अनिवार्य रूप से जी०एस०टी० अधिनियम/नियमावली में विहित प्रारूप में चालान जारी किया जाना चाहिए। व्यापारी द्वारा माल के समय जारी चालान अधूरा पाया गया, जो माल व सेवा कर अधिनियम के नियमावली के नियम 55 का स्पष्ट उल्लंघन है, इसलिए राज्य द्वारा माल एवं सेवा कर अधिनियम की धारा-129 के तहत की गयी कार्यवाही न्याय संगत है।

निर्णय के मुख्य अंश निम्नवत् है:-

" 9. Admittedly, the goods in question were transported from Ghaziabad to Meerut on 28.6.2019 and at the time of interception, the goods in question were found at different destination from the destination mentioned in the accompanying documents. After physical verification as well as detention of goods, a stand has been taken by the petitioner that the goods were sent for job work, a challan has been issued as such there is no contravention of the provisions of the Act. However, learned ACSC has submitted that there are contravention of the provisions prescribed under Rule 45 and 55 of the GST Rules as goods sent for job work a challan is required to be issued and in the absence thereof, the proceedings are justified.

10. Before proceeding further, it is pertinent to quote here the relevant Rules of GST Rules:-

Rule 45: Conditions and restrictions in respect of inputs and capital goods sent to the job worker

(3) The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker 1[, and where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker:

Provided that the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal:

Provided further that the challan endorsed by the job worker may be further endorsed by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.]

(4) The challan issued by the principal to the job worker shall contain the details specified in rule 55.

(3) The details of challans in respect of goods dispatched to a job worker or received from a job worker 2[*****] 3[during a specified period] shall be included in FORM GST ITC-04 furnished for that period on or before the twenty-fifth day of the month succeeding 4[the said period] 5[or within such further period as may be extended by the Commissioner by a notification in this behalf: Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]

(4) Where the inputs or capital goods are not returned to the principal within the time stipulated in section 143, it shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out and the said supply shall be declared in FORM GSTR-1 and the principal shall be liable to pay the tax along with applicable interest.

Rule 55. Transportation of goods without issue of invoice.-

(1) For the purposes of-

(a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,

(b) transportation of goods for job work,

(c) transportation of goods for reasons other than by way of supply, or

(d) such other supplies as may be notified by the Board, the consigner may issue a delivery challan, serially numbered not exceeding sixteen characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely:-

(i) date and number of the delivery challan;

(ii) name, address and Goods and Services Tax Identification Number of the consigner, if registered;

(iii) name, address and Goods and Services Tax Identification Number or Unique Identity Number of the consignee, if registered;

(iv) Harmonised System of Nomenclature code and description of goods;

(v) quantity (provisional, where the exact quantity being supplied is not known);

(vi) taxable value;(vii) tax rate and tax amount - central tax, State tax, integrated tax, Union territory tax or cess , where the transportation is for supply to the consignee;

(viii) place of supply, in case of inter-State movement; and

(ix) signature.

(2) The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely:-

(a) the original copy being marked as ORIGINAL FOR CONSIGNEE;

(b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and

(c) the triplicate copy being marked as TRIPLICATE FOR CONSIGNER.

(3) Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared as specified in rule 138.

(4) Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.

(5) Where the goods are being transported in a semi knocked down or completely knocked down condition 1[or in batches or lots] –

(a) the supplier shall issue the complete invoice before dispatch of the first consignment;

(b) the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;

- (c) each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
(d) the original copy of the invoice shall be sent along with the last consignment.

11. On bare reading of the aforesaid rules, it appears that there is requirement for issuing a challan for the goods send to job work. Rule 55 provides that challan should be issued or in duplicate and duly filled in prescribed format.

12. Learned ACSC has produced a photocopy of challan issued by the petitioner (which is not disputed by the counsel for the petitioner) and on perusal of the same, it shows that various descriptions as required under Rule 55 of the Rules are not mentioned on it and the same was incomplete. Once various requirements as contemplated under the Rules were not complied with, which demonstrates the contravention of Rules 55, therefore, the proceeding under Section 129 of the GST Act cannot be said to be arbitrary.

13. In view of above, no interference is called for in the impugned order."

अतः उक्त महत्वपूर्ण निर्णय को इस पत्र के साथ संलग्न कर इस निर्देश के साथ प्रेषित किया जा रहा है कि स्वयं से अवगत होते हुए अपने अधीनस्थ समस्त अधिकारियों को भी उक्त निर्णय से अवगत कराये तथा मा० उच्च न्यायालय द्वारा दिये गये उक्त निर्णय का संज्ञान लेते हुए कार्यवाही सुनिश्चित की जाए।

संलग्नक: उपरोक्तानुसार।

(डा० नितिन बंसल)

आयुक्त,राज्य कर,
उत्तर प्रदेश, लखनऊ।

पृ०प०सं० व दिनांक उक्त।

प्रतिलिपि-1- अपर आयुक्त ग्रेड-1/2, (उच्च न्यायालय कार्य) राज्य कर, प्रयागराज/लखनऊ को इस आशय से प्रेषित कि विभागीय पैरवी में उपयोग किया जाए।

2-संयुक्त आयुक्त (आई०टी०) राज्य कर, मुख्यालय, लखनऊ को इस निर्देश के साथ प्रेषित कि उक्त परिपत्र को विभागीय वेबसाईट पर प्रकाशित करने का कष्ट करें।

13/03/15
संयुक्त आयुक्त (वाद),राज्य कर,
मुख्यालय, लखनऊ।

Neutral Citation No. - 2025:AHC:34283

Reserved on 04.03.2025

Delivered on 10.03.2025

Court No. - 2

Case :- WRIT TAX No. - 57 of 2021

Petitioner :- M/S Famus India

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Mr. Pranjali Shukla, Mr. Parth Goswami

Counsel for the respondent:- Mr. Ravi Shanker Pandey, ACSC

Hon'ble Piyush Agrawal,J.

1. Heard Mr. Parth Goswami along with Mr. Amit Kumar Yadav holding brief of Mr. Pranjali Shukla for the petitioner and Mr. Ravi Shanker Pandey, learned ACSC for the respondent.

2. By means of present petition, the petitioner is assailing the order dated 8.9.2020 passed by Additional Commissioner, Grade - 2, (Appeal 1st), Commercial Tax, Meerut in Appeal No. 068 of 2019, under Section 129 (3) of UP G.S.T. Act for the assessment year 2019-20.

3. Learned counsel for the petitioner submits that the petitioner is a registered firm having GSTIN No. 09AAAPF7319M1ZJ. He submits that in the normal course of business, the petitioner has placed an order from M/s R.G. Steels, Ghaziabad for 16.7 ton of iron steel in which bill no. 0140 dated 27.6.2019 was generated

and the goods were transported with the vehicle having registration no. UP 77 N 8477 but on its onward journey from Ghaziabad to Meerut, the goods were intercepted on 28.6.2019 by the Mobile Squad and on physical verification, it was found that place of unloading was mismatched, therefore, a show cause notice was issued in Form MOV 07 demanding Rs. 1,14,804/-, thereafter on deposit of said amount, the goods were released and MOV 09 was issued vide order dated 29.6.2019 imposing tax as well as the penalty. The petitioner has challenged the said order in appeal, which was dismissed vide order dated 8.9.2020.

4. Learned counsel for the petitioner submits that the goods in question were accompanying with the proper documents however instead of getting the goods unloaded at its business premisses, the same was sent at the place of job worker. He submits that since the goods were unloaded at the job worker place of business along with all documents, there is no violation of the Act and entire proceeding initiated against the petitioner is arbitrary and liable to be set aside.

5. In support of his submissions, learned counsel for the petitioner has relied upon the judgement of this Court in the case of **M/s Shyam Sel and Power Limited Vs. State of UP and others** (Neutral Citation No. 2023:- AHC:191074).

6. *Per contra*, learned ACSC has supported the impugned order. He submits that the goods can be detained and order under Section

129 of the Act can be passed, if there is any contravention of the provisions of the Act. He submits that in the present case, there is contravention of the provisions of Rule 45 and 55 of the GST Rules, which contemplate that if the goods were to be sent for job worker, then duly filled challan is mandatory. He further submits that in the present case, there is clear cut violation of the Rules, therefore, the seizure and penalty proceedings are justified in accordance with Act and Rules.

7. Learned ACSC further submits that findings of fact recorded against the petitioner have not been assailed in any part of the writ petition, therefore, the petition itself is liable to be dismissed.

8. After hearing learned counsel for the parties, the Court has perused the records.

9. Admittedly, the goods in question were transported from Ghaziabad to Meerut on 28.6.2019 and at the time of interception, the goods in question were found at different destination from the destination mentioned in the accompanying documents. After physical verification as well as detention of goods, a stand has been taken by the petitioner that the goods were sent for job work, a challan has been issued as such there is no contravention of the provisions of the Act. However, learned ACSC has submitted that there are contravention of the provisions prescribed under Rule 45 and 55 of the GST Rules as goods sent for job work a challan is

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Provided that the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal:

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Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]

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duly filled in prescribed format.

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13. In view of above, no interference is called for in the impugned order.

14. The writ petition lacks merit and same is accordingly dismissed.

Order Date :- 10.03.2025
Rahul Dwivedi/-