2025:AHC:197620

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 1592 of 2025

M/S Archana Plasmould

.....Petitioner(s)

Versus

State Of Up And 2 Others

.....Respondent(s)

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

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard learned counsel for the petitioner and learned ACSC for the State - respondent.

2. By means of present petition, the petitioner is assailing the order dated 13.1.2025 passed by respondent no. 2 and the order dated 27.7.2024 passed by respondent no. 3.

3. Learned counsel for the petitioner submits that the petitioner is a proprietorship firm registered under the GST Act having GSTIN 24AARPP7310B1ZW and involved in the business of manufacturing and supply of plastic moulds. He submits that the goods in question were intercepted and seized on 25.7.2024 only on the ground that Part B of the E-way bill accompanying with the goods was not generated thereafter the penalty order has been passed against which the petitioner has preferred an appeal, which has been dismissed by the impugned order.

4. Learned counsel for the petitioner further submits that at the time of interception of the vehicle in question, all the requisite documents were produced and the goods were found as per the description mention in the tax invoice. He further submits that while passing the penalty order under section 129(3) of the GST Act, no reason has been assigned. He further submits that Part - B of the e-way bill could not be filled due to some technical glitch. He further submits that there was no intention to evade payment of tax. He further submits that all other documents were duly filled, except Part - B of the e-way bill and the authorities below have not

whispered a word indicating intention of the petitioner to evade payment of tax.

5. In support of his submissions, he has placed reliance on the judgement of the Division Bench of this Court in M/s Tata Hitachi Construction Machinery Company Private Limited Vs. State of U.P. & Others [Writ Tax No. 2148/2025, decided on 09.05.2025] as well as the judgements of this Court in **M/s Citykart Retail Private Limited Vs. the CCT & Another [Writ C No. 22285/2019, decided on 06.09.2022]** and **M/s Roli Enterprises Vs. State of U.P. & Others [Writ Tax No. 937/2022, decided on 16.01.2024]** as well as Single Judge Bench of this Court in **M/s Metloy Cast Vs. Additional Commissioner, Grade -2 and another (Neutral Citation No. 2025:AHC:121373).**

6. Per contra, learned ACSC supports the impugned orders and submits that the goods were in movement and Part - B of the e-way bill was not duly filled and therefore, the proceedings have rightly been initiated against the petitioner but he could not dispute the legal proposition enumerated in the aforesaid judgements relied upon by the counsel for the petitioner.

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

8. The short issue involved in the present case is with regard to penalty under section 129(3) of the GST Act on the basis of non-filling of Part -B of the e-way bill. The record shows that the stand of the petitioner was that due to technical glitch, Part - B of the e-way fill could not be filled, but there was no intention to evade payment of tax as well as none of the authorities below has recorded any finding with regard to intention to evade payment of tax. The Division Bench of this Court in **M/s Tata Hitachi Construction Machinery Company Private Limited (supra)** has categorically held that non-filling of e-way bill will not attract penalty under section 129(3) of the GST Act. The same view has been reiterated by this Court in **M/s Citykart Retail Private Limited (supra)** and **M/s Roli Enterprises (supra).** Further, the record reveals that due to technical error, Part - B of the e-way bill could not be filled, which has not been disputed at any stage.

9. In the light of the aforesaid facts, there was no intention of the petitioner

to evade payment of tax, which would amount to levy of penalty under section 129(3) of the GST Act.

10. In view of the aforesaid facts & circumstances of the case, the impugned orders cannot be sustained in the eyes of law and same are hereby quashed.

11. The writ petition succeeds and is **allowed**.

12. The authority concerned is directed to refund any amount deposited by the petitioner in pursuance of the present proceedings initiated against the petitioner within a period of two months from the date of production of a certified copy of this order.

(Piyush Agrawal,J.)

November 10, 2025
Rahul Dwivedi/-