(2017) 01 AHC CK 0190

In the Allahabad High Court

Case No : Trade Tax Revision No. 356 of 2011

M/S Amar Jyoti Transport — APPELLANT

Vs

Commissioner, Commercial Tax — RESPONDENT

Date of Decision : 20-01-2017

Acts Referred:

Citation : (2017) 95 UPTC 321

Hon'ble Judges : Ashwani Kumar Mishra, J.

Bench : Single Bench

Advocate : N.C. Gupta and Brijesh Jauhari, Advocates, for the Applicant; C.S.C, for the Opposite Party

Final Decision : Disposed Off

Judgement

Ashwani Kumar Mishra, J.—This revision is directed against orders passed by the authorities under the Act seizing goods of the applicant on the ground that it was being transported contrary to law. The revision was entertained and following interim protection was granted on 20.5.2014:-

"The revisionist herein is aggrieved by the order of seizure of the goods while passing from U.P. in transit from Delhi to Bihar/ West Bengal. The other grievance of the revisionist is that quantum of penalty and security demanded for release of goods is also not justified under the facts and circumstance of the case.

The question as to whether the validity of the seizure order can be adjudicated in revision by the High Court has been referred by me to a Larger Bench vide order dated 9.5.2011 passed in STR No. 324 of 2011 (Mehndipur Balaji Impex (P) Ltd. v. Commissioner of Commercial Taxes).

The other ancillary issue which arises for determination as to whether the transporter alone is entitle to get the goods released without the actual owner coming forward and joining the transporter in getting the goods released. The aforesaid question is under consideration in Sales Tax/Trade Tax Revision No. 234 of 2011 (M/S Shree Balaji Freight Carrier v. Commissioner, Commercial Tax, U.P., Lucknow).

In view of the above, let this revision be listed after decisions of the above revisions.

In view of the facts and circumstances of the case, as an interim measure the goods are permitted to be released in favour of the revisionist on furnishing Bank guarantee in respect of the entire disputed amount instead of cash deposit and the revisionist is permitted to carry the goods in accordance with the Transit Form with necessary modifications."

2. Learned counsel for the revisionist submits that till date no orders imposing penalty have been passed upon the revisionist and bank guarantee furnished under the orders of the Court continues to remain blocked.

3. Learned Standing Counsel submits that penalty proceedings apparently have not been drawn on account of pendency of this revision.

4. Considering the facts and circumstances, noticed above, it would be appropriate to dispose of the matter with the observation that since sufficient time has already lapsed, the authorities under the Act if intends to impose any penalty, proceedings in that regard may be undertaken in accordance with law and be concluded within a period of three months from the date of presentation of certified copy of this