(2021) 07 UK CK 0131

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1404 Of 2018

M/s Shiv Shakti Stone Crusher — APPELLANT

Vs

State Of Uttarakhand And Others — RESPONDENT

Date of Decision : 20-07-2021

Acts Referred:

Citation : (2021) 07 UK CK 0131

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Navneet Kaushik, T.S. Phartiyal

Final Decision : Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. Petitioner owns a Truck, bearing Registration No. UA10-4674. Petitioner surrendered permit of the said transport vehicle in the office of Assistant

Regional Transport Officer on 13.06.2014. Since petitioner did not make any application for extension of surrender of the transport vehicle, therefore,

he was exempted from payment of tax on the said vehicle only for a period of three months and he was asked to deposit the tax for the period

between 01.10.2014 to 31.12.2017, amounting to Rs. 74,750/-. By the order dated 10.11.2017, impugned in the writ petition, petitioner was further

asked to deposit a sum of Rs. 74,750/-, as penalty. Thus, feeling aggrieved, petitioner has approached this Court, seeking the following relief:

â??(i) Issue appropriate writ, order or direction in the nature of certiorari quashing/setting aside the impugned order dated 10-11-2017 passed by

Respondent no.3 (Contained as Annexure No. 4) to this Writ Petition.â??

2. Learned counsel for the petitioner submits that petitioner has deposited the

amount of tax i.e. Rs. 74,750/- pursuant to the order dated 18.05.2018,

therefore, in terms of the said order, the amount of penalty has not been recovered from the petitioner so far. Learned counsel for the petitioner very

fairly submits that petitioner is giving up his challenge to the imposition of tax of Rs. 74,750/- on the petitioner for the period 01.10.2014 to 31.12.2017,

however, petitioner is aggrieved by imposition of penalty of Rs. 74,750/- upon him. He submits that there is no provision in the relevant statute for

imposition of the same amount as penalty.

3. Learned Additional C.S.C. submits that, against the impugned order, petitioner has a remedy of filing an Appeal. He submits that if petitioner files

such Appeal within three weeks from today, decision thereupon shall be taken as early as possible; but, not later than four months.

4. Having regard to the facts & circumstances of the case, the writ petition is disposed of with liberty to petitioner to approach the Transport

Commissioner by filing an Appeal against the order dated 10.11.2017 passed by A.R.T.O. (Administration), Haridwar. If petitioner files an Appeal

within three weeks from today, then the Appellate Authority i.e. Transport Commissioner shall consider petitionerâ??s Appeal and take appropriate

decision, in accordance with law, as early as possible; but, not later than four months from the date of filing of Appeal.

5. For a period of five months or till decision in petitionerâ??s Appeal, whichever is earlier, the penalty amount shall not be recovered from the

petitioner.

6. In case petitioner does not file the Appeal within a period of three weeks from today, then the respondents shall be at liberty to proceed against the

petitioner for recovery of the aforesaid amount.

