Section 10 of Section 73 as applicable for the financial year 2017-18 and therefore the impugned orders are beyond jurisdiction being barred by the time provided in the said provision, therefore, we **allow** the writ petition and quash the impugned orders dated 05.10.2024 and 02.12.2023 issued by the Deputy Commissioner, State Tax, Sector 05, Lucknow.

9. Consequences shall follow, accordingly. The accounts of the petitioner which have been freezed shall be de-freezed.

(2024) 11 ILRA 105
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 11.11.2024

BEFORE

THE HON'BLE AJAY BHANOT, J.

Writ Tax No. 1689 of 2024

M/s Monotech Systems Limited ...Petitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:
Abhinav Mehrotra, Satya Vrata Mehrotra, Utkarsh Malviya

Counsel for the Respondents:
C.S.C.

Tax Law - Goods and Services Tax Act, 2017 - Section 129 - Detention, seizure and release of goods and conveyances in transit - Against order of Additional Commissioner - Technical breaches - Impugned order arises out of proceedings after interception of vehicle carrying offending goods - Revenue authorities upon finding that E-Way Bill was not filled, asked assessee/petitioner to show cause and after physical inspection of goods no discrepancy found. (Para 2)

Contention by assessee that goods in vehicle were fully reconciled with E-Way Bill - Non filling of part of E-Way Bill would not ipso facto attract proceedings u/s 129, GST Act. (Para 4)

When substantial compliance of provisions was disclosed and physical inspection of goods tallies with goods declared in E-Way Bill and no intent of tax evasion was made out, proceedings under aforesaid section became vitiated - Thus, impugned order quashed. (Para 7)

Writ Petition allowed. (E-13)

List of Cases cited:

VSL Alloys (India) Pvt. Ltd. Vs St. of U.P. & anr.(Writ Tax No.- 637 of 2018)

(Delivered by Hon'ble Ajay Bhanot, J.)

1. Heard Sri Abhinav Mehrotra, learned counsel for the petitioner and Sri Ravi Shankar Pandey, learned Additional Chief Standing Counsel for the State respondents.

2. The impugned order arises out of proceedings which were instituted after interception of the vehicle carrying the offending goods. The revenue authorities upon finding that the E-Way Bill was not filled asked the assessee to show cause. After physical inspection of the goods no discrepancy was found.

3. The goods tallied with the description in the E-Way Bill.

4. The assessee on show cause resisted the proceedings by filing a response. According to the assessee there was no intent to evade the tax. The goods in the

vehicle were fully reconciled with the E-Way bill. Non filling of the part of E-Way Bill would not ipso facto trigger the proceedings under Section 129 of the GST Act in the facts of this case.

5. The adjudicating authority as well as the appellate authority negatived the submissions made on behalf of the assessee and passed the impugned order.

6. The facts which are admitted and disclosed from the records are these. There was no discrepancy in the goods which were physically found at the time of inspection and details of goods recorded in the E-Way Bill available with the driver of the vehicle. The authorities below have not found any intent to evade tax.

7. This Court has set its face against initiation of proceedings under Section 129 of GST Act in the wake of mere technical breaches. When substantial compliance of the provisions is disclosed and when the physical inspection of goods tallies with the goods declared in the E-Way Bill and no intent of tax evasion is made out, proceedings under Section 129 of GST Act become vitiated.

8. In **VSL Alloys (India) Pvt. Ltd. Vs State of U.P. and Another (Writ Tax No.- 637 of 2018)** this Court has held as under:

"We are in full agreement with the submission of learned counsel for the petitioner and after perusal of the relevant documents, we find no ill intention at the hands of the petitioner nor the petitioner was supposed to fill up Part-B giving all the details including the vehicle number before the goods are loaded in a vehicle, which is meant for transportation to the same to its end destination.

In the present case, all the documents were accompanied the goods, details are duly mentioned which reflects from the perusal of the documents. Merely of none mentioning of the vehicle no. in Part-B cannot be a ground for seizure of the goods. We hold that the order of seizure is totally illegal and once the petitioner has placed the material and evidence with regard to its claim, it was obligatory on the part of the respondent no.2 to consider and pass an appropriate reasoned order. In this case, no reasons are assigned nor any discussion is mentioned in the impugned order of seizure and notice of penalty. The respondent no.2 has also not considered the above notification dated 07.03.2018."

9. The matter is covered by the judgment rendered in **VSL Alloys (supra).** The impugned order dated 22.12.2023 passed by the respondent no. 2, Additional Commissioner, Commercial Tax Grade-2 (Appeal)-I, State Tax, Noida is unsustainable and is quashed.

10. The petition is allowed.

(2024) 11 ILRA 106
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 18.11.2024

BEFORE

THE HON'BLE SHEKHAR B. SARAF, J.
THE HON'BLE VIPIN CHANDRA DIXIT, J.

Writ Tax No. 1757 of 2024

Agmotex Fabrics Pvt. Ltd. ...Petitioner
Versus
State of U.P. & Ors. ...Respondents