

**Court No. - 47**

Neutral Citation No. - 2023:AHC:86526-DB

Case :- WRIT TAX No. - 292 of 2023**Petitioner :- M/S Delhivery Limited****Respondent :- State of U.P. and Another****Counsel for Petitioner :- Shubham Agrawal****Counsel for Respondent :- C.S.C.****Hon'ble Ashwani Kumar Mishra,J.****Hon'ble Vinod Diwakar,J.**

This petition is directed against an order passed by the department under Section 129(3) of GST Act, dated 26.02.2023, addressed to one Ajay Yadav. This order is assailed on the ground that the goods in question belong to the petitioner. Submission is that though all other documents required for the transit of goods were accompanied, yet the vehicle's number was wrongly recorded in the transit document, inadvertently, on account of which the impugned action is initiated.

Learned counsel for the petitioner submits that since the order impugned has been passed against the driver, it would not be open for the cosigner or the consignee to challenge such order before the appropriate forum. It is otherwise not disputed that the impugned order is appealable under the statute.

On the other hand, Learned Standing Counsel submits that the cosigner or the consignee can always challenge the impugned order claiming ownership of the goods on the basis of documents evidencing their ownership, and any deposit of tax would ultimately be adjusted against the confiscated goods. Therefore, the argument that the petitioner would be deprived of the remedy of appeal in such circumstances is misconceived.

We find substance in the objections raised by the respondents inasmuch as the cosigner or the consignee would always be at liberty to challenge the confiscation of goods along with the supporting documents evidencing their ownership and merely because the order has been addressed to the driver of the vehicle would not be to the prejudice of the rights and contentions of the cosigner or the consignee.

In such circumstances, the petitioner would be at liberty to challenge the order impugned by way of an appeal. In such view of the matter, we are not inclined to entertain a challenge to the order impugned directly in the writ petition. All questions of law and fact are left open for examination at the appropriate forum.

The writ petition is, accordingly, dismissed.

Order Date :- 18.4.2023

Ujjawal