

**Court No. - 7**

**Case :-** WRIT TAX No. - 664 of 2025

**Petitioner :-** M/S Saumya Through Its Partner, Shri Ghanshyam Popat

**Respondent :-** Union Of India And 3 Others

**Counsel for Petitioner :-** Ami Tandon

**Counsel for Respondent :-** A.S.G.I., Abrar Ahmad, C.S.C.

**Hon'ble Piyush Agrawal, J.**

Learned counsel for the petitioner does not propose to file any rejoinder affidavit to the counter affidavit filed by the State.

Heard Shri Ami Tandon, learned counsel for the petitioner, Shri Ravi Shankar Pandey, learned ACSC for the State - respondents and Shri Abrar Ahmad, learned counsel for the Union of India.

The instant writ petition has been filed against the impugned order dated 26.10.2024 passed by the respondent no. 3 as well as the impugned order dated 07.06.2023 passed by the respondent no. 4.

Learned counsel for the petitioner submits that in the normal course of its business, on 05.06.2023, tax invoice and e-way bill were generated for supply of goods to Himachal Pradesh, which were intercepted and seized on 06.06.2023 near Mathura on the basis of the statement of the truck driver that the goods have been loaded from Nagpur, instead of Chandrapur (Maharashtra) as disposed in the accompanying documents. He further submits that in the GST registration certificate, the principal place of business is mentioned as Chandrapur and additional place of business is mentioned at Nagpur, from where the goods were loaded. He further submits that due to technical error at the time of generating the e-way bill, the place of dispatched of goods has been mentioned as "Chandrapur". Thereafter, the respondent no. 4 issued the impugned order dated 07.06.2023 imposing IGST and penalty upon the petitioner. Against the said order, the petitioner preferred appeal, which has been dismissed vide impugned order dated 26.10.2024.

Learned counsel for the petitioner further submits that merely a wrong mention of place of loading would not change the nature of transaction or any concealment on the part of the petitioner. He further submits that the authorities below have nowhere recorded a finding that the petitioner has intention to evade tax. In support of his submissions, he has placed reliance on the judgements of this Court in *M/s Zhuzoor Infratech Private Limited Vs. Additional Commissioner & Another* [Writ Tax No. 830/2024, decided on 14.02.2025] and *Uttam Electric Store Vs. State of U.P.* [Writ Tax No. 153/2021, decided on 26.07.2024].

Per contra, learned counsel for the respondents support the impugned orders.

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

It is not in dispute that the goods in question were intercepted and thereafter, seized on the basis of the statement of the truck driver that the goods were loaded from Nagpur for transportation to Himachal Pradesh, to which a detailed reply was submitted specifically stating that it was a technical error. The record further shows that no discrepancies, whatsoever, was pointed out with regard to quantity, quality, etc. of the goods as mentioned in the e-way bill and tax invoice.

The issue is covered by the judgement of this Court in ***M/s Zhuzoor Infratech Private Limited*** (supra), in which it has been held as under:-

*"11. The Court is of the opinion that e-way bill is the document which is generated and accompanying the goods in transit, so that department may come to know about the movement of goods from one place to another place. So that at the time of passing final assessment, the particular transaction may not escape from levy of tax as per the prevalent provisions, under the GST Act.*

*12. Further, the e-way bill can be cancelled within its validity as provided under the Act. The case in hand, the e-way bill was automatically generated on 14.12.2022, which was valid up to 16.12.2022. In the present case, the e-way bill has not been cancelled within its validity, therefore, no adverse view can be taken against the petitioner that if the goods were not intercepted, transaction in question could have escape to assessment.*

*13. This Court in the case of M/s Sun Flag Iron and Steel Company Limited Vs. State of UP and others; Neutral Citation No. 2023:AHC:215906 has held that the purpose of e-way bill is that the department should know the actual movement of the goods and once the e-way bill is not cancelled within the prescribed period, the genuineness of the transaction cannot be questioned. Relevant paragraph of the said judgement is quoted hereunder:*

*11. Under the G.S.T. regime, all the details are available on the G.S.T. portal and it is admitted that e-tax invoice was raised and e-way bill was generated and the same was not cancelled within 24 hours as provided under the Act. Once the said fact is not disputed and the petitioner has not exercised its right either to withdraw the tax invoice or e-way bill in question, it was well within the knowledge of the department that movement of the goods in question has been undertaken by the petitioner. Merely on the technical ground that e-way bill accompanying with the goods in question was expired on 1.6.2023 whereas the vehicle had been intercepted in the intervening night of 2/3.6.2023.*

*12. The purpose of e-way bill is that the department should know the movement of goods. Once the e-way bill has been generated and same has not been cancelled by the petitioner within the time prescribed under the Act, the movement of goods as well as genuineness of transaction in question cannot be disputed. ....*

*14. Thus, merely on technical ground that in the e-way bill accompanying with the goods in question, the place of shipment has wrongly been mentioned, the seizure or levy of penalty cannot be made."*

In view of aforesaid fact and circumstances of the case, the proceedings initiated against the petitioner are not justified in the eyes of law.

In the results, the writ petition succeeds and is allowed. The impugned order dated 26.10.2024 passed by the respondent no. 3 as well as the impugned order dated

07.06.2023 passed by the respondent no. 4 are hereby quashed.

Any amount deposited by the petitioner in the present proceedings shall be refunded to it, in accordance with law, expeditiously, preferably within a period of one month from the date of producing a certified copy of this order.

**Order Date :-** 14.7.2025

Amit Mishra