

**Court No. - 7**

**Case :-** WRIT TAX No. - 683 of 2020

**Petitioner :-** M/S Gaylord Packers India Pvt. Ltd.

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Praveen Kumar

**Counsel for Respondent :-** C.S.C.

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

1. Heard Mr. Vaibhav Singh holding brief of Mr. Praveen Kumar for the petitioner and Mr. Ravi Shanker Pandey, learned ACSC for the State -respondent.

2. By means of present petition, the petitioner is assailing the order dated 22.2.2020 passed by respondent no. 3 and order dated 13.2.2019 passed by respondent no. 4.

3. Learned counsel for the petitioner submits that the petitioner is a private limited company engaged in the business of manufacture and sale of polyester film etc used as packing material. In the normal course of business, the petitioner has received an order from M/s Rajni Enterprises Delhi and in pursuance thereof the consignment was prepared and invoice and e-way bill were generated. He submits that when the goods in question was transported from Ghaziabad to Delhi and during journey, the same was intercepted and seized on 12.2.2019 at Ghaziabad on the ground that in tax invoice and e-way bill, one digit was different.

4. Learned counsel for the petitioner submits that due to clerical error, invoice number was mentioned as '4671' instead of '4670' in the e-way bill and all the other details were exactly same.

5. He further submits that the controversy involved in the present petition is squarely covered with the decision of this Court passed in **M/s Nanhey Mal Munna Lal Vs. Additional Commissioner and another , 2024 UPTC (vol 118) 1377** and **M/s Cavendish Industries Ltd. Vs. State of UP (Neutral Citation No. 2024: AHC: 69167)**. He further relied upon the circular dated 14.9.2018, in which it has categorically been mentioned that proceedings under Section 129 of the GST Act may not be initiated, if there is any error in one or two digits of the document number mentioned in the e-way bill.

6. Per contra, learned ACSC supports the impugned order.

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

8. This Court in the case of **M/s Cavendish Industries Ltd. (supra)**, specifically

in para nos. 5 and 6, has held as under:-

*"5. This Court in M/s Hindustan Herbal Cosmetics v. State of U.P. and Others (Writ Tax No.1400 of 2019 decided on January 2, 2024) held that mens rea to evade tax is essential for imposition of penalty. The factual aspect in the present case clearly does not indicate any mens rea whatsoever for evasion of tax. The goods were accompanied by the relevant documents. The relevant paragraph of the said judgment reads as under:*

*"8. Upon perusal of the judgments, the principle that emerges is that presence of mens rea for evasion of tax is a sine qua non for imposition of penalty. A typographical error in the e-way bill without any further material to substantiate the intention to evade tax should not and cannot lead to imposition of penalty. In the case of M/s. Varun Beverages Limited (supra) there was a typographical error in the e-way bill of 4 letters (HR ? 73). In the present case, instead of '5332', '3552' was incorrectly entered into the e-way bill which clearly appears to be a typographical error. In certain cases where lapses by the dealers are major, it may be deemed that there is an intention to evade tax but not so in every case. Typically when the error is a minor error of the nature found in this particular case, I am of the view that imposition of penalty under Section 129 of the Act is without jurisdiction and illegal in law."*

*6. In light of the above, I am of the view that the finding of the authorities with regard to intention to evade tax is not supported by the factual matrix of the case, and accordingly, the impugned orders dated February 22, 2020 and March 19, 2020 are quashed and set aside."*

9. In view of facts and circumstances of the case as well as looking to the aforesaid judgement, the impugned orders cannot be sustained in the eyes of law and same are hereby quashed.

10. The writ petition is **allowed**.

11. Any amount deposited by the petitioner in pursuance of the impugned orders, shall be refunded to the petitioner along with interest @ 4 % from the date of its deposit till the date of its actual payment.

**Order Date :- 17.7.2025**

Rahul Dwivedi/-