

Court No. - 10

Case :- WRIT TAX No. - 1772 of 2025

Petitioner :- M/S Maa Amila Coal Depot

Respondent :- State Of Uttar Pradesh And 2 Others

Counsel for Petitioner :- Akshay Gupta,Pranjal Shukla,Sumit Agrawal

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal,J.

Heard learned counsel for the petitioner and learned ACSC for the State - respondents.

The instant writ petition has been filed against the impugned order dated 27.7.2022 with summary order dated 3.1.2023 passed by the respondent no.3 as well as the impugned order dated 27.11.2024 passed by the respondent no.2 under section 130 of the GST Act.

Learned counsel for the petitioner states that the issue in hand is squarely covered by the decision of this Court in ***S/s Dinesh Kumar Pradeep Kumar Vs. Additional Commissioner, Grade - 2 & Another*** [Writ Tax No. 1082 of 2022, decided on 25.07.2024], which has been affirmed by the Apex Court in Special Leave Petition (Civil) Diary No. 5879 of 2025 vide order dated 17.4.2025.

Learned ACSC does not dispute the aforesaid fact.

Earlier time was granted to the State for filing of counter affidavit but no counter affidavit has been filed till date.

Looking to the fact that controversy raised in the present writ petition is squarely covered by the judgement of this Court in ***S/s Dinesh Kumar Pradeep Kumar*** (supra), the present case is being decided without exchanging the pleadings.

In ***S/s Dinesh Kumar Pradeep Kumar*** (supra), this Court has held that if excess stock is found, the proceedings under section 73 and 74 of UPGST Act will come into play and the proceedings under Section 130 of the GST Act cannot be initiated.

For the reasons recorded in *S/s Dinesh Kumar Pradeep Kumar* (supra), the present writ petition succeeds and is allowed.

The impugned order dated 27.7.2022, 3.1.2023 and 27.11.2024 passed in the proceedings under section 130 of the GST Act, are hereby quashed.

Any amount deposited by the petitioner shall be refunded in accordance with law.

Order Date :- 30.5.2025

Rahul Dwivedi/-