

GIB/All/RK Overseas/01-02-2018/HC-126

High Court Category : Search & Seizure

State : Allahabad

Order No.: GIB/All/RK Overseas/01-02-2018/HC-126

Name of Entry :
RK Overseas

Date : 01-02-2018

Breif Issue :

Facts & Issue of The Case:

The petitioner RK Overseas filed the petition against seizure of goods in transit vide order dated 18-1-2018 passed under section 129(1) of the U.P. Goods and Service Tax Act, 2017

The order of seizure has been passed on two grounds that:

1. the goods were being transported from New Delhi and not from Ghaziabad as alleged.
2. Secondly, the value of the goods has been suppressed and according to Kaccha bill found with the consignment, the value of the goods is much higher.

Decision of Advance Ruling Authority :

Decision

Section 107 of the Act provides for appeal to appellate authority against the orders passed under the Act by the adjudicating authority, but section 121 of the Act carves out the exceptions.

Sec121 as per the CGST Act states Non-appelable decisions and orders as follows:

- (a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or
- (b) an order pertaining to the seizure or retention of books of account, register and other documents; or
- (c) an order sanctioning prosecution under this Act; or

(d) an order passed under section 80.

the aforesaid provision reveals that the legislature has not provided for any appeal against the order if any passed pertaining to the seizure. The order impugned is nothing but an order pertaining to seizure and as such is not appealable.

In view of the aforesaid facts and circumstances, it was held that the order of seizure of the goods in transit or storage passed under section 129(1) of the Act is not appealable and therefore, a writ petition is maintainable against it subject to the limitations of judicial review.