

**GIB/UP/RIMJHIM/15-03-2019 /HC-100**

**High Court Category :** Others

**State :** Uttar Pradesh

**Order No.:** GIB/UP/RIMJHIM/15-03-2019 /HC-100

**Name of Entry :**  
Rimjhim Ispat Limited

**Date :** 15-03-2019

**Breif Issue :**

**Facts & Issue of the case**

The petitioner-Rimjhim Ispat Limited situated at Sumerpur, District Hamirpur, Uttar Pradesh filed the petition challenging the respondent – State of UP & Others on that the power of inspection, search and seizure on the proper officer has been conferred when he has ‘reasons to believe’ that a taxable person has suppressed any transaction relating to supply of goods and service or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under the UPGST Act, 2017.

Hence, the entire search and seizure was done in complete disregard of the provisions of search under the UPGST Act, 2017.

The petitioner, thus, prays for the following reliefs:

- (i) issue a suitable writ, order or direction in the nature of certiorari calling for the records of the case and to quash the impugned Seizure Order and Panchnama dated 14.3.2018 (Annexure-1 to this writ petition).
- (ii) issue a suitable writ, order or direction in the nature of mandamus restraining the respondents from taking any action on the basis of the impugned Seizure Order and Panchnama dated 14.3.2018 (Annexure-1 to this writ petition.)
- (iii) issue a suitable writ, order or direction in the nature of mandamus commanding the respondents to release/return all the documents and goods seized vide the impugned Seizure Order and Panchnama dated 14.3.2018.
- (iv) issue a suitable writ order or direction in the nature of mandamus directing the respondents, to return back the sale and purchase invoices which are yet to be incorporated in the stock register, seized during the course of search, to find out actual figure of purchases and sales.
- (v) issue any other writ, order or direction which this Hon’ble Court may deem fit and proper in facts of the instant case.

**Decision of Advance Ruling Authority :****Decision:**

It was held/decided that:

The High Court observed that, As regards the substantive due process, which has to be followed before any search, can be carried out, is contained under sections 67(1) and 67(2) of the U.P. GST Act and prior to exercise of the said powers it is essential that the officer authorized to carry out the search should have 'reasons to believe' which should be based on reasonable material and should not be arbitrary. It is also established that this Court in exercise of its powers under Article 226 cannot go into the sufficiency of the reasons and should not sit as an appellate court over the reasons recorded. However, the reasons may or may not be communicated but the same should exist on record. The officers concerned had recorded their 'reason to believe' which were based upon information received by the Department fortified by interception of the goods of the petitioner wherein the e-way bill was found to be suspicious which led to the search.

The petitioner has thus failed to even establish that the procedure followed during the search was illegal or tainted with mala fides. Thus, the writ petition fails and is liable to be dismissed.

The High Court held that 'reason to believe' did not appear to be arbitrary and it could not go into the question of validity of the reasons. Therefore, the writ to be dismissed.