

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 1606 of 2022

One 97 Comuncations LimitedPetitioner

Through :- Mr. Tarun Gulati, Senior Advocate with Mr. Nishant Mishra, Advocate

v/s

Union of India and othersRespondents

Through :- Mr. Sudarshan Singh and Mr. Anant Kumar Tiwari,
Advocates for respondent nos. 1 & 6
Mr. Ankur Agarwal, Standing Counsel for
respondent nos. 2, 4 & 5
Mr. Dhananjay Awasthi, Advocate for for
respondent no. 3

CORAM : HON'BLE RAJESH BINDAL, CHIEF JUSTICE

HON'BLE J.J. MUNIR, JUDGE

ORDER

1. One of the issue raised in the present petition is that the supply of mobile recharge coupons and Direct To Home (DTH) recharge vouchers to recipients, who are located in other States, would be inter-state supply or intra-state supply.

2. The contention raised by the learned Senior Counsel for the petitioner is that the amount of tax has been paid in the State of U.P. treating the same to be inter-state supply. However, demand is sought to be raised by the State claiming the same to be intra-state supply. In terms of Section 19 of the Integrated Goods and Services Tax Act, 2017, if any amount of tax is wrongly paid, it can be adjusted and in terms of Section 77 of The Central Goods and Services Tax Act, 2017, no interest is payable for such transaction.

3. For clarification of the issue, the petitioner has made representation to the Central Board of Indirect Taxes and Customs

(hereinafter referred to as 'Board') on September 7, 2017, however the same is still pending.

4. Learned counsel for respondent no. 3 submitted that the representation made by the petitioner shall be considered and appropriate directions shall be issued thereon by the Board within three months.

5. In view of the fact that the amount of tax due on the transaction has already been paid and only dispute is whether it is to be treated as intra-state sale or inter-state sale, recovery of the demand raised vide order dated December 3, 2022 shall remain stayed till the next date of hearing.

6. Adjourned to April 27, 2023.

(J.J. Munir)
Judge

(Rajesh Bindal)
Chief Justice

Allahabad
06.01.2023
Ved/Manish Himwan