

Court No. - 3

Case :- WRIT TAX No. - 26777 of 2018

Petitioner :- Nagendra Pratap Singh

Respondent :- State Of U.P.Thru Prin.Secy.Tax And Registration And 3 Ors.

Counsel for Petitioner :- Mudit Agarwal

Counsel for Respondent :- C.S.C.,Deepak Kumar Srivastava

Hon'ble Vivek Chaudhary,J.

Hon'ble Manish Kumar,J.

1. Heard Sri Santosh Kumar Tripathi, learned counsel for petitioner and learned Standing Counsel for State.

2. Petitioner has approached this Court challenging the recovery citation dated 11.06.2018 contained as Annexure No.1 and order of assessment of Trade Tax/VAT for the period 2005-2006 upto 2013-2014 passed by respondents authorities.

3. Learned counsel for petitioner states that said orders are passed against M/s Avadh Transformers Pvt. Limited. Learned counsel for petitioner submits that petitioner was the director of the said company but he is no more director since the year 2010 and, therefore, the said amount cannot be recovered from petitioner.

4. A perusal of impugned order of VAT which is filed as Annexure No.9 shows that the same is passed against M/s Avadh Transformers Private Ltd. itself. Similarly recovery certificate dated 11.06.2018 is also against M/s Avadh Transformers Private Ltd. company and only the petitioners' name comes thereafter as owner (director). Both are against the company and not against the petitioner therefore, no recovery from the petitioner in person is being made.

5. Learned Standing Counsel also could not dispute that the petitioner was not a director at the time the recovery certificate was being issued.

6. In view thereof, it is clarified that merely because name of petitioner is noted as owner (director) in the recovery citation or in the impugned order for that reason the amount can not be recovered from the petitioner. The demand/recovery citation is against the company and can be recovered from the company or its successor only and not against petitioner who is an ex-director of the said company.

7. Hence, the writ petition is **allowed** with liberty to the respondents to recover the amount due from the company or its successor, if any, in accordance with law.

Order Date :- 11.10.2023

Arti/-

[Manish Kumar,J.] [Vivek Chaudhary,J.]