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By Nidhi, Advocate



Judgment No.: 108
Dt.: 11-04-2024



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Judgment Deals With

Section/Rule	Section 67
Authority	Allahabad High Court
Case Name	M/s. Gaurav Saurav Traders And Contractors VS State of U.P.
Dated	13 th December, 2023

Brief Facts of the Case:

The petitioner aggrieved by the action of search and seizure carried out on the premises of the assessee on September 2, 2022.

Contention of the Petitioner:

Case of the petitioner is that the mandatory provision with regard to Section 67(1) of the UPGST Act, 2017 has not been complied with by the Joint Commissioner while granting the authorization for search and seizure.

Findings & Decision of the Court:

Upon a perusal of the documents, it was found that the authorization for search under the Form GST INS -01 was issued on 31.08.2022. However, the reasons for carrying out the search was provided to the Joint Commissioner subsequently which he has signed on September 1, 2022.

This is a clear case of putting the cart before the horse wherein the officer concerned has authorized the search and seizure without even looking into the reasons for the authorization of the same.

It is clear that it is only after reasons are provided to the Joint Commissioner that he can authorize in writing any search and seizure to be carried out. In the present case, the said procedure had not been followed, and accordingly, the entire authorization is vitiated and liable to be quashed.

Thus, the entire search and seizure that has been carried out is based on an illegal authorization and was quashed and set aside. The Authorities were directed to release all goods and documents that they may have detained or confiscated.

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