Mere E-Way Bill Expiry Does Not Establishes Intention to Evade Taxes

The Hon'ble Gujarat High Court (**"the High Court"**) in the case of *M/s. Shree Govind Alloys Pvt. Ltd. v. State of Gujarat (R/Special Civil Application No. 23835 of 2022) dated December 01, 2022*, held that mere expiry of the e-way bill during transit of vehicle cannot be a valid ground for detention and seizure.

Facts:

M/s. Shree Govind Alloys Pvt. Ltd. (**"the Petitioner"**) hired transporter for transporting goods and generated e-way bill for such transportation. Unfortunately, the vehicle was not in motorable condition due to which goods which could have reached to destination on October 17, 2022 did not reach. On October 19, 2022 during transit such vehicle was intercepted by GST Authority (**"the Authority"**) for inspection during which it was found that so generated e-way bill has been expired 41 hours before the time of inception. The Authority seized the vehicle along with goods and issued a detention order and a notice under Section 129(3) of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**). On November 04, 2022, the Authority passed an order **("the Order**") demanding tax and penalty.

Aggrieved by the Order of the Authority, the Petitioner filed a Special Civil Application before the High Court.

Issue:

Whether GST Authority can detain and seize transport vehicle along with goods in case e-way bill expires during the course of transit?

Held:

The High Court held that:

- As decided in the case of *Govind Tobacco Manufacturing Co. vs. State of U.P [Writ Tax No 600 of 2022]* dated May 17, 2022, seizure is not permissible if e-way bill expires during the transit.

- Further, in the case of *M/s. Daya Shaker Singh Vs. State of Madhya Pradesh [W.P. No. 12324 of 2022]* dated August 10, 2022, it was held that where respondent could not establish any element of evasion of tax with fraudulent intent or negligence on the part of petitioner the detention was not permissible.

- The High Court relied on the above judgements and quashed the Order passed by the GST Authority dated November 04, 2022 and detention order dated October 19, 2022 and notice issued under Section 129(3) of the CGST Act.

Relevant Provision:

Section 129(3) of the CGST Act

The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1)

Rule 138 of the CGST Rules, 2017

Information to be furnished prior to commencement of movement of goods and generation of e-way bill.-

(1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees-

(i) in relation to a supply; or

(ii) for reasons other than supply; or

(iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods as specified in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal.

(Author can be reached at info@a2ztaxcorp.com)

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