

Penalties should not be imposed solely for technical errors lacking any intent to evade tax

The Hon'ble Allahabad High Court in the case of *Rawal Wasia Yarn Dying (P.) Ltd. v. Commissioner Commercial Tax [Writ Tax No. 352 of 2023 dated January 16, 2024]* held that the invoice itself contains the details of the truck, the error committed is technical only and without any intention to evade tax. Hence, there is no requirement to levy penalty under Section 129(3) of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**).

Facts:

Rawal Wasia Yarn Dying (**"the Petitioner"**) did not file Part 'B' of the E-way Bill. The invoice had all the details of the truck that was carrying goods and the goods were not invariance with the invoice. The Petitioner was served an Order dated May 24, 2022 (**"the Impugned Order"**) under Section 129(3) of the Uttar Pradesh Goods and Services Tax Act, 2017 (**"the UPGST Act"**) levying penalty upon the Petitioner. The Petitioner's appeal was dismissed by the subsequent appellate authority by an Order dated October 15, 2022 (**"the Impugned Order"**).

Hence, aggrieved by the Impugned Order, the present writ petition was filed by the Petitioners.

Issue:

Whether a Penalty can be levied once it is proved that there is no intention to evade tax and there was just a technical error?

Held:

The Hon'ble Allahabad High Court *Writ Tax No. 352 of 2023* in held as under:

- Observed that, the invoice itself contained the details of the truck and the error committed by the Petitioner was of a technical nature only and without any intention to evade tax. Once this fact has been substantiated, there is no requirement to levy penalty under Section 129(3) of the CGST Act.

- Relied on the case of ***M/s Citykart Retail Private Limited through Authorized Representative v. Commissioner Commercial Tax and Another [2023 U.P.T.C. [Vol.113]-173]*** where it was held that non filling up of Part 'B' of the e-Way Bill by itself without any intention to evade tax cannot lead to the imposition of penalty under Section 129(3) of the CGST Act.
- Held that, the Respondents to return the security to the Petitioner within six weeks from the date of the order. Hence, the Impugned Orders were quashed and set aside.

Our Comments:

In Pari Materia case before the Hon'ble Supreme Court in the case of ***Assistant Commissioner ST & Ors. v. Satyam Shivam Papers Pvt. Ltd. [SLP (C) No. 21132/2021]***, the Court held that the presence of mens rea is a primary requirement for determining evasion of tax for imposition of penalty.

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