

## **No provision to Disclose the Route of Transportation of Goods under GST**

The Hon'ble Allahabad High Court in *M/s. Om Prakash Kuldeep Kumar v. Additional Commissioner Grade-2 and Another [WRIT TAX No. - 277 of 2022 dated October 03, 2023]* set aside the seizure of goods transported and held that, unlike the Value Added Tax Act, 2008 ("the VAT Act"), there is no specific provision in the Goods and Services Tax Act, 2017 ("the CGST Act") which requires assesses to declare the route of transportation/ transit of goods.

### **Facts:**

M/s. Om Prakash Kuldeep Kumar ("**the Petitioner**") is a registered dealer trading Bidi, Matchbox, Tobacco, etc.

The Petitioner prepared the Tax invoice as well as the E-way bill for the goods that were loaded on the Truck for transportation from Bewar Mainpuri to Karahal Mainpuri and Chhibramau, Kannauj.

During the onward journey, when the goods were in transit, the same was intercepted, and on the production of documents, i.e., tax invoices and e-way bills, Form GST MOV-01 was prepared. On the driver's statement of the vehicle, the seizure/ detention order in Form GST MOV-06 was issued. After that, Form GST MOV-07 was passed, and the department, being not satisfied with the reply of the Petitioner, passed an order raising a demand of Rs. 2,36,304.68/- under Form GST MOV-09 under Section 129 (3) of the Uttar Pradesh Goods and Services Tax Act, 2017 ("**the UP GST Act**").

The department seized the vehicle and thereafter, a penalty was imposed on the ground that the driver of the vehicle produced only one tax invoice and e-way bill, whereas the documents about other items were not produced. In this regard, the Petitioner submitted that the driver intended to unload the goods prematurely in Mainpuri, citing the driver's statement in Form GST MOV-01. The absence of a specified provision in the CGST Act regarding route disclosure

during transportation makes the penalty unjust, whereas the VAT Act did contain such a provision.

**Issue:**

Whether there is any provision to disclose the route of transportation of Goods under the CGST Act?

**Held:**

The Hon'ble Allahabad High Court in ***WRIT TAX No. - 277 of 2022*** held as under:

- Observed that, the goods in question were sold by the registered dealer along with genuine documents, i.e., tax invoices and e-way bills. At the time of interception, it is alleged that the driver of the vehicle made statement that goods were to be unloaded at the place, which is not mentioned in the tax invoice but at Mainpuri itself.
- Opined that, Under the CGST Act, there is no specific provision that bounds the selling dealer to disclose the route to be taken during the transportation of goods or while goods are in transit however, there was a provision under the VAT Act to disclose the route during transportation of goods to reach its final destination. Once the legislature itself, in its wisdom, has chosen to delete the said provision, this Court opined that the authorities were not correct in passing the seizure order even if the vehicle was not on a regular route or a different route.
- Held that, the writ petition is allowed with the cost of Rs. 5000/- which shall be paid to the petitioner by the State within 15 days from today. The State exchequer will be at liberty to recover the said cost from the erring officer. The amount already deposited by the petitioner shall be refunded to him in accordance with law within a period of one month from the date of production of a certified copy of this order.

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