

Release of goods and vehicle when accompanied by E-way bill

The Hon'ble Allahabad High Court in *M/s. Western Carrier India Ltd v. State of U.P. and 4 Others [WRIT TAX No. - 1020 of 2023 dated September 15, 2023]* held that since the assessee's goods in transit were accompanied by the necessary documents, including an E-Way bill and invoice, the department should have released the goods and vehicle under Section 129 of the Central Goods and Service Act, 2017 ("**the CGST Act**").

Facts:

M/s. Western Carrier India Ltd ("**the Petitioner**") is engaged in the business of providing carrier services for the transportation of goods. The Petitioner has filed a writ petition praying for the release of the vehicle and goods seized by the Revenue Department ("**the Respondent**") as the required amount of the penalty has been paid as per the terms and conditions stipulated in Section 129(1)(a) of the CGST Act.

The Petitioner relying upon the clarification issued in *Circular No. 76/50/2018-GST dated December 31, 2018* contended that either the consignor or consignee would be the deemed owner of the goods transported, and the Respondent has erred in imposing penalty on the Petitioner. It was also contended that the Petitioner has the paid amount of penalty and fulfilled the conditions as stipulated in Section 129(1)(b) of the CGST Act.

The Respondent contended that the Petitioner has the right to avail alternative remedy of filing an appeal under Section 107 of the CGST Act for the release of vehicle and goods.

Issue:

Whether the Revenue Department can seize the goods and vehicle even after payment of penalty as per the terms and conditions stated in Section 129(1) of the CGST Act?

Held:

The Hon'ble Allahabad High Court in **WRIT TAX No. – 1020 of 2023** held as under –

- Observed that, vide Issue 6 of **Circular No. 76/50/2018-GST dated December 31, 2018**, either the consigner or the consignee accompanied with relevant documents should be deemed as the owner of the goods. Therefore, the Petitioner is considered as an owner of the goods.
- Directed that, the Respondent to release the goods and vehicle seized in transit under Section 129(1)(a) of the CGST Act, as were accompanied by necessary documents, including an E-Way bill and invoice, etc.

Relevant Provision:

Section 129(1) of the CGST Act

129. Detention, seizure and release of goods and conveyances in transit.—

(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,—

(a) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in the case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;

on payment of the applicable tax and penalty equal to fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in the case of exempted goods, on payment of

an amount equal to five per cent. of the value of goods or twenty- five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty.

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