

**Service of notice on truck driver or fixation of copy of order on truck is none of the methods prescribed under CGST Act**

The Hon'ble Allahabad High Court in *Ranchi Carrying Corporation v. State of UP and 2 Ors. [Writ Tax No. - 655 of 2020 dated December 7, 2020]* set aside the order for confiscation of goods and order in FORM MOV-09 passed and held that service of notice on truck driver or fixation of copy of order on truck is none of the methods prescribed under GST Law and it is well settled that whenever a manner is prescribed, it should be done in that manner alone. Further, observed that at no point of time, the Ranchi Carrying Corporation ("**the Petitioner**") was granted an opportunity of submitting reply and the grounds taken by the Petitioner before the Appellate Authority ("**Respondent**") were not considered, recording them to be an afterthought. Thus, on a plain reading, a failure of natural justice has been occasioned to the Petitioner.

**Facts:-**

FORM MOV-06 (Order of detention of goods or conveyance) and FORM MOV-07 (Notice specifying tax and penalty amount payable) were served to the driver of the truck however, FORM MOV-09 dated January 1, 2020 for demand, tax and penalty related to the goods was served by affixing the same on the truck.

The Petitioner contended that serving of the notices to the driver or fixation of the copy of the order on the truck in question is none of the methods prescribed under Section 169 Central Goods and Services Tax Act, 2017 ("**CGST Act**") and thus it is clear that the orders/notices were never served and the proceedings were held ex-parte.

Further, stated that the Petitioner submitted requisite documents at the time of appeal to the Respondent but the Respondent held that as no reply was filed to the notices sent, the grounds taken in the appeal appear to be afterthought and dismissed the appeal vide order dated August 5, 2020.

Hence, this Writ Petition has been filed.

**Issue:-**

Whether the serving of notices/orders to the Petitioner, were in a manner as prescribed under the provisions of CGST Act?

**Held:-**

The Hon'ble Allahabad High Court in ***Writ Tax No. - 655 of 2020 dated December 7, 2020*** held as under:

- Noted that, serving of the notices to the driver or a fixation of the copy of the order on the truck in question is none of the methods prescribed under Section 169 CGST Act and thus it is clear that the orders were never served and the proceedings were held ex-parte. A perusal of the provisions of Section 169 of CGST Act, makes it clear that a manner is specifically provided for service of notices. It is well settled that whenever a manner is prescribed, the thing should be done in that manner alone.
- Observed that, the order passed by the Respondent dated August 5, 2020 dismissing the appeal, shows that at no point of time, was the Petitioner granted an opportunity of submitting reply and the grounds taken by the Petitioner before the Respondent were not considered recording them to be an afterthought. Thus, on a plain reading, a failure of natural justice has been occasioned to the Petitioner.
- Set aside the order passed by the Respondent and the order in FORM MOV-09, with a liberty to the Respondent to conclude proceedings against the Petitioner, in accordance with law.
- Held that, as the notices have now been served upon the Petitioner, he shall file a fresh reply to the same within a period of three weeks and the concerned authority shall pass fresh orders, as expeditiously as possible, preferably within a period of four weeks from the date of filing of the objections, in accordance with law.

**Relevant provisions:-**

**Section 169 of the CGST Act:**

***“Service of notice in certain circumstances-***

*169. (1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:-*

*(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to*

*appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or*

*(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or*

*(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or*

*(d) by making it available on the common portal; or*

*(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or*

*(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.*

*(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).*

*(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.”*

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