

TAX INFO

Dated 19/04/2022

Latest update on GST Law: Information regarding **Release of vehicle and goods allowed by giving undertaking in case of genuine transactions** given in **Judgment by Tripura High Court.**

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Name of Petitioner	Podder & Podder Industries Private Limited
Name of Respondent	The State of Tripura
Court	Tripura High Court
Date of Judgement	29.03.2022
Appeal No.	WP(C) No.285 of 2022

Brief Facts of the Case Law:

The petitioner is engaged in the business of selling of construction machinery. The petitioner sold certain construction materials to a buyer in Agartala from Silchar (State of Assam) and the said machine was transported through a truck/trailer bearing registration No.HR 38 Z – 6075. The vehicle was carrying all valid documents pertaining to the machinery sold including the sale invoice, temporary registration certificate, insurance policy and e-way bill No.8612 1401 9866 valid up to 17.03.2022. It is further submitted that on the way the vehicle under which the goods were being transported, faced certain technical problems and when the vehicle reached at Churaibari on 18.03.2022 by the said time the e-way bill has expired. For this reason, the vehicle was detained and ultimately on 18.03.2022 the driver in-charge of the vehicle was informed with a direction of seizure of both the vehicle as well as the goods concerned.

Contention of the Petitioner:

The e-way bill under which the goods were being moved from Silchar to Agartala was issued by the buyer namely, Sri Swapan Chandra Dey who is a registered contractor in the State of Tripura and the buyer purchased the said equipment from the petitioner for the purpose of utilizing the same to carry out his contractual obligation to the State of Tripura under certain contract entered into by him. The petitioner and/or the buyer only had an 8-hour window of Rule 138, sub-rule (10) of the GST Rules, 2017 to seek any extension thereof. Any impact on the free-flow of goods and services (bona fide) ought to be encouraged and not discouraged since the free-flow and movement of goods and services throughout the Union of India is meant to be for the purpose of development of the nation. No doubt the rule making authorities have the authority to put conditions such as requirement of an e-way bill to cover the goods that have been transported. There was no doubt about the genuineness of the transaction even to the Department. The vehicle carrying goods for which the e-way bill has expired and the vehicle as well as goods be released by seeking an undertaking from the assessee concerned either the buyer or the seller.

Decision of the Court:

The Court is of the view since the transaction in question is between two registered dealers under the GST Act covered by the e-way bill and other documents where genuineness is not in doubt, vehicles carrying such goods ought to be permitted to continue with such carrying subject of course to either the check gate officer informing the assessing officer where the buyer is located and further direct the buyer to appear before the assessing officer to provide an opportunity to the buyer or seller to take such corrective steps as may be necessary in the matter. In a case where there is no doubt that a transaction is made between two registered dealers and is covered by the necessary documents including the e-way bill even if the e-way bill has expired just prior to the date of entry into the State, such goods ought not to be stopped and instead an undertaking should be taken from the buyer or the seller and intimation should be provided to the assessing officer of both the parties before whom the buyer or seller may appear to make necessary compliance. Any hindrance in the movement of goods or frays amounts to an obstacle of the development of the nation.

The petitioner was directed to appear before the check gate officer and to submit an undertaking or bond before the check gate officer and the check gate officer shall release the vehicle as well as the goods by accepting the undertaking or bond and such information as may be appropriate be provided to the assessing officer of both the seller and buyer who may be at liberty to initiate appropriate action against the registered dealer who shall be duty bound in law to make such compliances failing which they shall be liable for whatever consequences law has prescribed.

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