

TAX INFO

Dated 27/04/2022

Latest update on GST Law: **Release of goods and vehicle after payment of 25% of the demand of the penalty for non-mentioning of the full address on the invoice of the buyer Petitioner given in Judgment by Madras High Court.**

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Name of Petitioner	M/s.RKS Agencies
Name of Respondent	State Tax Officer
Court	Madras High Court
Date of Judgement	05.04.2022
Appeal No.	W.P. Nos.7882 & 7886 of 2022

Brief Facts of the Case Law:

The petitioner purchased cement from Andhra Pradesh, to be delivered to the Branch office at Coimbatore. When the goods were transported, the vehicle was intercepted by the Revenue Squad and they found that, there is a violation in the invoice that the full address of the buyer has not been mentioned. The Revenue detained the goods and issued a notice on 07.03.2022 wherein it was directed by the Revenue that the petitioner shall pay the penalty imposed against the petitioner within three days, failing which, action would be taken under Section 130 of the Centre/State Goods and Services Tax Act.

Contention of the Petitioner:

The absence of the full address of the buyer is not such a big offence or violation, for which, the goods in question can be detained by the Revenue. If notice is given, definitely defence would have been taken or reply would have been given, however though that is styled as a notice, they passed an order directing the petitioner to pay the amount within 3 days, failing which, action would be initiated against the petitioner under the provisions of the Act. Though this 07.03.2022 notice/order is under challenge, subsequently on 11.03.2022, pursuant to 07.03.2022 proceedings which they treated as a notice, they passed the final order dated 11.03.2022. Normally for these kind of omission assuming if it is a violation, a meagre penalty of Rs.5,000/- would be imposed and such an exorbitant fine of Rs.96,000/- and Rs.1,17,000/- imposed through the impugned order cannot be sustained.

Contention of the Revenue:

It is not the violation first time noticed, as this kind of violation from the petitioner has already been noticed, where also the full address of the petitioner, being a buyer, has not been mentioned in the document like invoice. Moreover, the Branch office of the petitioner located at Coimbatore, as claimed by the petitioner, is a non-functional office, where, on inspection, it was found by the Revenue that, no such activities of buying or stocking anything taken place. Therefore, cumulatively considering all these, such a fine has been imposed.

Decision of the Court:

An order dated 11.03.2022 which is a final order which is yet to be challenged before the Appellate Authority by the petitioner. The two truck load of cements which were bought by the petitioner now been detained has affected the petitioner's interest. However; Revenue's view that this violation is a recurring one from the petitioner, therefore a larger fine has to be imposed, is also to be considered.

Therefore, to balance the interest of both sides, The Court directed that the goods and vehicles detained by the Revenue shall be released after payment of 25% of the demand of the penalty by the petitioner.

Suresh Aggarwal, Advocate

Compliance & Litigation under GST

Address: House No. 54, Pocket A-3, Sector-5, Rohini- 110085

Phone: 91-9810032846; 011 - 45131427

Email: sureshagg@gmail.com

Website: <http://www.sureshtaxation.com>