

TAX INFO

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Latest update on GST Law: Payment of 100% of the admitted tax and 10% of the disputed tax is sufficient to safeguard the interest of revenue given in Judgment by Calcutta High Court.

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Name of Petitioner	Deputy Commissioner
Name of Respondent	Nidhi Madhogaria
Court	Calcutta High Court
Date of Judgement	18.02.2022
Appeal No.	MAT 1331 of 2021

Brief Facts of the Case Law:

Mrs. Nidhi Madhogoria was the wife of late Mohit Madhogoria, who was a registered dealer under the GST Act. The order of detention was passed by the authority detaining two trucks containing consignment of steel and other products. The impugned order is the interim order issued by the learned Single Judge directing release of the goods alongwith vehicle taking note of the fact that the wife of the deceased dealer has paid 100% of the disputed tax and further 10% of the disputed tax. The fact that as of now the GST Tribunal is not functional and had the avenue of appeal been available to the appellant, the appellant would have been required to pay 100% of the admitted tax and 10% of the disputed tax for her appeal to be entertained. The fact that the consignments along with the vehicle have been detained since September, 2021 was also taken into consideration.

Contention of the Revenue:

In terms of Section 129 of the CGST Act, 2017, the penalty will be 200% of the tax and since the appellant is not a registered dealer, the revenue cannot take steps to recover the balance and, therefore, the appellant should be put on further terms by directing her to execute a bond and also other means to secure the interest of revenue.

Contention of the Appellant:

The appellant's husband was a registered dealer under the GST Act and he had an untimely death and the appellant is taking steps to register herself as a dealer in the place of her husband and as on date she has stepped into the shoes of her husband.

Decision of the Court:

In our considered view, the appellant having paid the 100% of the admitted tax and further 10% of the disputed tax, the interest of revenue has been safeguarded, for the present. Therefore, the order issued by the learned Single Judge was upheld.

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>