

TAX INFO

Dated 06/06/2022

Latest update on GST Law: **Minor discrepancy in the actual quantity on physical verification and the quantity shown in Invoice and e-way bill cannot lead to proceedings under Section 129 of the CGST Act given in Judgment by High Court Of Gujarat.**

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Name of Petitioner	M/s Raghav Metals
Name of Respondent	State of Haryana
Court	High Court Of Punjab And Haryana
Date of Judgement	14.03.2022
Appeal No.	CWP No.25057 of 2021

Brief Facts of the Case Law:

The petitioner is engaged in the business of copper wires and copper scraps, which are purchased from the dealers located throughout the country and he is registered under Delhi GST Act, 2017/Central GST Act, 2017. In the ordinary course of business, the petitioner sold copper scraps to M/s R.N.T. Metals Pvt. Ltd., Bhiwadi (Rajasthan) for an amount of Rs.83,69,594/- (including IGST @ 18%). While the aforesaid goods were in transit in Vehicle No.HR-55S-1938, the same was intercepted by Revenue at Manesar on 27.11.2021. The goods were accompanied by valid Invoice No.RM/64/21-22 and e-way bill, as contemplated under the Act. On the asking of the Authorities, the said documents were produced, however the vehicle carrying goods was ordered to be stationed and Form GST MOV-02 was issued. Reply to GST MOV-02 was filed on 03.12.2021. On the same date i.e., 03.12.2021, Order of Detention under Section 129(1) of the Act in Form GST MOV-06 was issued on the ground that that on physical verification discrepancy was found in the actual quantity and the quantity shown in Invoice and e-way bill. Actual quantity was found to be 90 kgs. 700 gms. more than what has been found as per Invoice. Thus, by showing lesser quantity the petitioner intended to evade tax.

Contention of the Petitioner:

From perusal of the e-Invoice, it is clear that quantity of consigned goods is shown to be 10430.7 kilograms. An amount of Rs.12,76,717/- has been paid as tax on the consignment whereas as per the State, it was 10520 kilograms. The said difference in weight is less than 1%. As per State, the alleged evasion shall not be more than Rs.11000/-. It cannot be said that the petitioner had any intent to evade the tax or the mismatch in the quantities is of such nature which shall entail proceedings under Section 129 of the Act. A person, who has already paid a tax of Rs.12,76,717/- on a consignment cannot be said to have an intent to evade tax amounting to Rs.11000/-. The petitioner is ready to pay even the tax and penalty imposed by the State-Authorities which comes to be around Rs.22000/-.

Decision of the Court:

Such mismatch cannot lead to proceedings against the petitioner under Section 129 of the Act. Fine and penalty, if any, imposed against the petitioner and deposited by him, be refunded to him within a period of 15 days from the date of receipt of certified copy of this order. Since goods already stand released, no further order is passed.

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>