

# TAX INFO

*Dated 14/06/2022*

**Latest update on GST Law: Penalty under Section 129(3) of the CGST Act, 2017 cannot be imposed merely on the technical breach without any intention to evade tax as given by High Court Of Madras.**

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<b>Name of Petitioner</b>	M/s.Smart Roofing Private Limited
<b>Name of Respondent</b>	The State Tax Officer
<b>Court</b>	High Court Of Madras
<b>Date of Judgement</b>	30.03.2022
<b>Appeal No.</b>	W.P.(MD) No.5720 of 2022

## **Brief Facts of the Case Law:**

The petitioner had consigned the goods from its main place of business at Chennai to its additional place of business, Sastha Bombalan Modern Rice Mill, Chintamani Road, Madurai. This was not the additional place of business, as per the original registration certificate obtained by the petitioner on 02.08.2018. However, in the E-way bill and the delivery Challan, the petitioner had declared the consignee as Ring Road Chintamani, Madurai, though the consignment was meant for being discharged at its new place of business at Sastha Mombalan Modern Rice Mill, Chintamani Road, Madurai. Under these circumstances, the consignment along with lorry was detained on 22.03.2022. A show cause notice dated 23.03.2022, to which the petitioner has replied on 25.03.2022, which resulted in the impugned order dated 25.03.2022 in Form GST Mov-9 seeking to impose penalty of Rs.2,50,387/- under CGST and SGST each, totally for a sum of Rs.5,00,774/- under Section 129(3) of the CGST Act, 2017.

## **Contention of the Petitioner:**

There is no intention to evade tax as the petitioner has generated E-way bill by declaring the consignee as its additional place of business at Ring Road Chintamani, Madurai. Also, ex post facto, petitioner has taken steps for amending the registration by including Sastha Mombalan Modern Rice Mill, Chintamani Road, Madurai, as the additional place of business. The imposition of penalty under Section 129 (3) of the CGST and SGST is unwarranted under the circumstances.

## **Decision of the Court:**

No doubt, the authorities acting under the Act were justified in detaining the goods inasmuch as there is a wrong declaration in the E-way bill. However, the facts indicate that the consignor and the consignee are one and the same entity, namely, Head Office and the Branch Office. The petitioner has a new place of business, but had not altered the GST Registration. However, steps have been taken to ex post facto include the new place of business altering the GST Registration. The registration certificate has also been amended.

Therefore, there is only a technical breach committed by petitioner and there is no intention to evade tax. Hence, impugned order was quashed by directing the Department to release the vehicle and the consignment to 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>**