

TAX INFO

Dated 21/09/2022

Latest update on GST Law: **Inadvertent human error in E-way bill cannot lead to proceedings & penalties, only minor penalty can be imposed** as given in judgement by Madhya Pradesh High Court.

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Name of Petitioner	Maharaja Cables
Name of Respondent	Commissioner (GST) State Tax
Court	Madhya Pradesh High Court
Date of Judgement	02.09.2022
Appeal No.	WRIT PETITION No. 6110 of 2020

Brief Facts of the Case Law:

The petitioner, a private company engaged in the business of copper cables, entered into an agreement with one M/s Bajaj Electricals Ltd. for supply of certain goods. As per the agreement, the goods had to be delivered at the factory at Bhopal. The said agreement ultimately ensued in transportation of a consignment through M/s Maxwell Logistic Pvt Ltd. by vehicle bearing registration No. DL-01-GC 3550. A tax invoice was generated which reflected the destination as well as the registration number of the vehicle. Thereafter, the petitioner generated E-way bill which is required to be carried along with the consignment. However, the address on the E-way bill was mentioned at registered office of the consignee at Indore, instead of Bhopal and thus, the Revenue Authorities initiated proceedings under Section 129 of CGST Act, 2017 which ultimately resulted in passing of the order by which the liability of additional tax as well as penalty was imposed against the petitioner and the appeal against the said order was also dismissed. The petitioner has challenged the order passed by the original as well as appellate Authority.

Findings and Decision of the Court:

The mistake while generating E-way bill was an inadvertent human error and there was no intention to evade the tax liability particularly, when the vehicle number which was transporting the goods was same.

The issue in question which is being sought to be raised in the present petition, has already been decided vide order dated **04.02.2021 in W.P.No.12913/2020 (Robbins Tunnelling and Trenchless Technology (India) Pvt. Ltd. vs. The State of M.P. and others)** by a Coordinate Bench as well as this Bench vide order dated **16.03.2022 passed in W.P.No.344/2022.**

Thus, in view of the above and the mistake in question being bonafide, the Court invoked the principle of parity, and the impugned orders were respectively quashed.

It was further directed that the Department will be at liberty to consider the case of the petitioner for imposition of a minor penalty, while treating the mistake in question, to be a clerical mistake as per Circular dated 14.09.2018 bearing No.CBEC/20/16/03/2017-GST, issued by Ministry of Finance, Government of India.

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