TAX INFO

Dated 17/11/2022

Latest update on GST Law: **No Penalty order when Inadvertent mistake in invoice number is made** as given in judgement by **Uttarakhand High Court.**

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Name of Petitioner	M/s Sonal Automation Industries
Name of Respondent	State of Uttarakhand
Court	Uttarakhand High Court
Date of Judgement	27.04.2022
Appeal No.	Writ Petition (M/S) No. 1969 of 2021

Brief Facts of the Case Law:

The order dated 20th August, 2019 was passed by the Department imposing the penalty of Rs. 6,84,000/- and the appellate order dated 28th November, 2019 was passed whereby the Appeal filed by the petitioner was dismissed, and consequently, affirming the imposition of the penalty, as it has been imposed by Department.If the impugned order itself is taken into consideration, the only reason which has been assigned for invocation of Section 129, had arisen because of the fact, that in the description of the invoice, the petitioner had escaped to refer the alphabetical figures, which was given therein, i.e. SAI/V235, but all the other details, for example, pertaining to the number of the way bill, the date of the way bill, the mode of delivery of the goods, the goods consigned, which was being carried, the vehicle number, in which it was being carried, all those details were correctly entered into the document supplied by the petitioner by way of GST MOV-07, except for the fact, that the invoice number was wrongfully mentioned as "235" instead of "SAI/V/235".

Contention of the Petitioner:

The wrongful incorporation of the tax invoice number as to be "235", only, was never with an intention to deceive the State with the revenue, but rather it was a human error, which has inadvertently chanced, and which deserves to be ratified by invoking of provisions contained in the **Circular No. 64//38/2018-GST/Dated 14th September, 2018**, wherein, it had provided that if during the course of investigation of a vehicle, carrying the goods, if it is apprehended by the Investigating Team, certain minor discrepancies, which chances in the entries, which are made in the way bill or the tax invoices, are to be overlooked, prior to invocation of the provisions contained under Section 129 (1). But, however, the said Circular of 14th September, 2018, has been read to the contrary; to the detriment of the petitioner, hence, it was taken to the contrary to invoke the provisions contained under Section 129 and to oust the petitioner's entitlement of protection provided by Circular of 14th September, 2018.

Findings and Decision of the Court:

The Circular has to be rationally and logically construed and when the revenue was conscious that a minor error may creep in while furnishing the e-way bill and those minor discrepancies are to be overlooked and Section 129, is not to be even invoked invariably, under all the circumstances, where it does not affect the financial implications or the liabilities, which has to be fastened upon the assessee under the Taxing Laws. Since it was not backed with a clever intent to deceive the State of the revenue, and particularly, when the other figures or entries provided by the petitioner by submission of the e-way bill to the Revenue, it contained all the other particulars, which were correct and corresponding to the details provided in the tax invoice, in fact, there was no apparent intention, as such to deceive the State with the revenue and hence, the error which has crept in giving the invoice number would fall to be within an exception Clause 5 of the Circular of 14th September, 2018. Since even the invoice number "235" has been consistently maintained in all the documentations, which were made by the petitioner, since it never cleverly intended to evade the tax, or revenue of the State, the exception would fall to be within Clause 5 of the Circular dated 14th September, 2018. Thus, the imposition made on account of the said human error, which has crept in in invoice number is pardonable under Clause 5 of the Circular dated 14.09.2018. Thus, the impugned order dated 20th August, 2019, and the appellate order dated 28th November, 2019 were quashed. As a consequence of imposition of the penalty in pursuance to the impugned order, since the same already stands deposited with the Revenue, the said amount may be directed to be refunded in the light of this judgement.

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