

# TAX INFO

Dated 10/01/2022

Latest update on GST Law: Information regarding **Mere change of route for delivery of goods and under valuation of goods cannot be the grounds for confiscation of goods** as given in **Judgement by Gujarat High Court.**

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<b>Name of Petitioner</b>	M/S. Karnataka Traders
<b>Name of Respondent</b>	State Of Gujarat
<b>Court</b>	Gujarat High Court
<b>Date of Judgement</b>	06/01/2022
<b>Appeal No.</b>	R/Special Civil Application No. 19549 Of 2021

## Facts of the Case:

The petitioner sold the goods to the buyer who was having the office premises in Ahmedabad. The consignment was intercepted by the Department and the necessary documents i.e. E-way bill and Tax Invoice were produced by the driver / person in charge of the vehicle. However, Form GST MOV – 02 was issued to conduct physical verification / inspection of the conveyance, goods and documents and upon examination of the same, report in Form GST MOV – 04 was prepared. No discrepancy was noted with regard to the description of goods as per invoice and conveyance nor was any anomaly found with regard to quantity as per invoice and physical verification.

## **The impugned notice in Form GST MOV – 10 describes two discrepancies:**

- (i) Vehicle was travelling to the different direction than the direction of destination. So it is clear that the goods were not moving to the place destined for. Hence, it appears that the goods are being transported with intention to evade tax.
- (ii) The value of goods being transported is shown Rs.286/- which is too low compared to its Real Market Value i.e. 330/-.

## Contention of Petitioner:

- i. The petitioner has relied on the decision **in the case of Podaran Foods India Pvt. Ltd. vs. State of Kerala, 2020 (50) GSTL(Ker.)**, where the Court is categorical that mechanical detention of the consignment is impermissible, merely because the driver has opted for different route.
- ii. He also relied on the decision **in the case of K.P. Sugandh Ltd. vs. State of Chhattisgarh, 2020(38) G.S.T.L. 317(Chattisgarh)** on the ground that the Court has not held the detention of vehicle and the seizure of goods sustainable merely because there was an undervaluation, by holding that it is for the department to initiate the appropriate separate proceedings with regard to the alleged undervaluation and that itself cannot furnish a ground for detention of vehicle.

## Decision of the Court:

It was held that there cannot be any mechanical detention of a consignment in transit solely on the basis of the two reasons as stated in the impugned notice. An inference cannot be drawn with regard to the intention of the petitioners to evade tax merely considering the direction preferred by the driver for delivery of consignment to the place destined for. So far as the second ground with regard to the goods being transported to be undervalued is concerned, no material has been placed on record. Even otherwise, as held by this Court as well as other High Courts, it is a settled legal position that undervaluation cannot be a ground for seizure of goods in transit by the inspecting authority. Mere undervaluation of the goods also by itself is not sufficient to detain the goods and vehicle far from being liable to confiscation. **Therefore, the entire confiscation proceedings were quashed and set aside and the Court directed that the vehicle as well as the goods should be released at the earliest.**

**Suresh Aggarwal, Advocate**

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