

TAX INFO

Dated 19/01/2022

Latest update on GST Law: Information regarding **Penalty imposed on erring officer for unjustified seizure of the goods** as given in **Judgement by Allahabad High Court.**

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Name of Petitioner	Shri Surya Traders
Name of Respondent	Union Of India
Court	Allahabad High Court
Date of Judgement	06/01/2022
Appeal No.	Writ Tax No. - 1146 of 2021

Facts of the Case:

Petitioner engaged in the business of selling Sweet Supari. In the normal course of business, 90 bags of Betel Nut Product were sold to two different registered dealers by issuing two tax invoices that were being transported to its destination along with tax invoices & e-way bill. The said goods were intercepted by the proper officer Varanasi. On the physical verification, three bags of Betel Nut Product were found without tax invoice and a show cause notice was issued to the petitioner and in reply to the show cause notice, the petitioner has submitted tax invoice issued in the name of M/s Lalji Pan Bhandarand the said tax invoice was handed over to the transporter but by mistake he left it behind. Since the value of the goods was less than Rs. 50,000/-, therefore, e-way bill was not generated. He submitted that the consignment of 87 bags sold to M/s KarunaNidhan Agency is complete in all respect and the said goods should have not been seized to that extent. If any, discrepancy can be attributed it should be with regard to three bags only. He prays that the goods be released without security.

Contention of Department:

Only one e-way bill was issued for 87 bags but with regard to three more bags no e-way bill was there and tax invoice was submitted along with the reply to the show cause notice, therefore, there was contravention of the provisions of the Act. He further submits that in the event, if the consignment of various dealers were going and there were any discrepancy with regard to any of the consignment, the consignment as a whole has to be seized and therefore tries to justify the seizure order and demand of security.

Decision of the Court:

If the dealer has submitted the tax invoice along with the reply to the show cause notice, no adverse inference can be drawn. If before the seizure order, the documents were submitted and if the same is not accepted, mere issuance of show cause notice will be redundant. It is well settled that the quasi-judicial authority while exercising of its statutory powers must have to act fairly with open mind in the proceedings. Once along with the reply, the tax invoice was submitted the value of which was less than fifty thousand and as per Rule 138, there was no requirement for generating of e-way bill to the said transaction. If the authorities were of the opinion that the transaction were not duly recorded in the books of account or had committed any contravention of the provisions of the Act, they are well equipped with all the provisions to make an inspection/survey at the business premises of the petitioner in accordance with law but the authorities were not justified in detaining / seizing and demanding the security of the goods. More precisely perusal of Rule 138-way bill requires if the value of the transaction is more than Rs. 50,000/- then only e-way bill is required. So far as the consignment of 87 bags are concerned which was duly accompanying with all proper documents as prescribed under the Act/Rule, the authorities were not justified in seizing and demanding security for release of the same.

Therefore, the impugned order is hereby quashed. The present case is a glaring example of the mischievous of the State Authorities which needs to be checked at the end of the State Government immediately. The writ petition is allowed with cost of Rs. 20,000/- (twenty thousand) payable to the petitioner. The cost shall be paid within a period of one month from today by the erring officer.

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