

# TAX INFO

*Dated 28/10/2021*

Latest update on GST Law: Information regarding **Presumption Of Intention To Evade Tax Cannot Be Drawn On The Basis Of Expiry Of E-Way Bill Validity** as given in **Judgement by Telangana High Court.**

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<b>Name of Petitioner</b>	M/S Satyam Shivam Papers Pvt. Ltd.
<b>Name of Respondent</b>	Asst. Commissioner
<b>Court</b>	Telangana High Court
<b>Date of Judgement</b>	02/06/2021
<b>Appeal No.</b>	Writ Petition No.9688 of 2020

## **Facts of the Case:**

The Petitioner made an intra-State supply of paper through a tax invoice dt.04.01.2020 and had also generated an e-way bill dt.04.01.2020. The said goods were being delivered by an auto trolley who was on its way but on account of a political rally being conducted by certain political parties opposing Citizenship Amendment Act (CAA) and National Register of Citizens (NRC), the traffic was blocked at Basheerbagh, Hyderabad, and the road got jammed from all corners and the auto trolley could not move forward or backward till 08:30 p.m. and by that time, the shop of the buyer has closed, and so the auto trolley driver took the trolley to his residence with the goods so as to deliver them on the next working day. 05.01.2020 was a Sunday, and the next working day was 06.01.2020. On 06.01.2020, the auto trolley was on its way for delivery of the paper to the buyer but it was detained by the Deputy State Tax Officer and a Detention Notice in Form GST MOV-07 dt.06.01.2020 was served alleging that the validity of the e-way bill had expired proposing to impose tax and penalty.

## **Contention of Petitioner:**

That the auto trolley was released by illegally unloading the goods by Department which was kept at relative's place of the officer. On 08.01.2020, Petitioner submitted representation explaining reasons which resulted in expiry of the e-way bill but Department did not acknowledge receipt of the same and did not also release the goods. Till 19.01.2020 the goods were not released, so the Petitioner had to make the payment of Rs.69,000/-. An order was passed on 22.01.2020 in Form GST MOV-09 mentioning that petitioner admitted tax and penalty, which is factually incorrect since the petitioner had never admitted the same but deposited for realisation of the Goods.

## **Decision of the Court:**

There was no material to come to the conclusion that there was evasion of tax by the petitioner merely on account of lapsing of time mentioned in the e-way bill. The goods were wrongfully kept for safe keeping in the house of a relative of the officer for 16 days and not in any other place designated for such safe keeping by the State.

The abuse of power by the Department in collecting from the petitioner tax and penalty is exercised by compelling the petitioner to pay Rs.69,000/-. Thus, order dt. 22.01.2020 passed by the Senior Assistant of the Department in Form GST MOV - 09 levying tax and penalty of Rs.69,000/- on the petitioner is set aside. The Department is directed to refund the said amount collected from petitioner within four weeks with interest @ 6% p.a from 20.01.2020 when the amount was collected from petitioner till date of repayment. The Department shall also pay costs of Rs.10,000 to the petitioner in 4 weeks.

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