

TAX INFO

Dated: 04.09.2020

Latest update on GST Law: Information regarding **Ruling that Detention of vehicle on the basis that supplier had issued invoices 21 days and 7 days prior to the removal of goods is invalid** based on the **Judgement issued by Kerala High Court.**

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Ruling that Detention of vehicle on the basis that supplier had issued invoices 21 days and 7 days prior to the removal of goods is invalid

Name of Petitioner	M/s. Hero Ecotech Ltd.
Name of Respondent	The Asst. Sales Tax Officer
Court	Kerala High Court
Date of Judgement	17/07/2020
Order No.	WP(C). No.10668 OF 2018(G)

Petitioner is an assessee under the GST Act, 2017, engaged in the manufacture and sale of bicycles. On the basis of orders received, consignment of bicycles were transported in lorry No.TN 38/AP-9081 under three invoices. However, the consignment of bicycles were intercepted and detained. The reason stated is that there was a time delay between the invoices and transportation which raised suspicion that consignor and consignee colluded for multiple transport of goods with the same set of invoices and there by evaded tax.

The Ld. counsel for the petitioner that the amount directed in notice was deposited by the petitioner for the purpose of releasing the detained vehicle and consignments. A counter affidavit has been filed on behalf of the respondent wherein it is stated that the vehicle was detained on account of the fact that the supplier had issued the invoices 21 days and 7 days prior to the time of removal of goods, which was in contravention to the provisions of the CGST Act.

Petitioner has filed a reply affidavit denying the contentions regarding the delay in removal of goods and according to them, the inter-state sale of bicycles was carried out properly. The counsel for the petitioner referring to Section 31 of CGST Act, 2017 and pointed out that as per the statute, an invoice could be issued either at the time of removal of goods or prior to the delivery of the goods and that the same is in consonance with the statute and hence, there is no cause for doubting any evasion of tax

It was held that by the Hon'ble High Court hat since adjudication is already pending, it is only proper that a conclusion is not entered into at this juncture. The Court directed complete the adjudication proceedings within a period of two months.

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