

# TAX INFO

Dated: 14.09.2020

Latest update on GST Law: Information regarding Goods cannot be detained on the basis of non-mentioning of tax amount based on the Judgement issued by Kerala High Court.

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## Goods cannot be detained on the basis of non-mentioning of tax amount

<b>Name of Petitioner</b>	M. S. Steel and pipes
<b>Name of Respondent</b>	Asst. State Tax Officer
<b>Name of Court</b>	Kerala High Court
<b>Appeal Number</b>	W.P(C).No.16356 OF 2020
<b>Date of Judgement</b>	12/08/2020

### Facts of the Case:

A consignment of goods transported at the instance of the petitioner was detained by the respondent on the allegation that there was a discrepancy in the e-way bill that accompanied the transportation of the goods. The petitioner discovered that the reason for detention was that, while the consignment was supported by an invoice which contained the details of the goods transported as also the tax paid in respect of the goods, there was no mention of the tax amounts separately in the e-way bill that accompanied the goods. The respondents therefore detained the goods on the ground that there was no valid e-way bill, supporting the transportation in question.

### Contention of Petitioner:

The learned counsel for the petitioner would point out that there is no requirement under the Act and Rules for mentioning the tax amount separately in the e-way bill in FORM GST EWB-01 that the petitioner was obliged to use to cover the transportation in question. It is further pointed that there is no dispute that the transportation was covered both by a tax invoice, as also an e-way bill in FORM GST EWB-01, and when both the documents are perused together, it is amply clear that the transportation was covered by documents that clearly indicated the fact of payment of tax on the goods that were being transported. It is contended therefore that there was no justification for the detention under Section 129 of the Act.

### Reply of Respondent:

The submission of the learned Government Pleader that as per Section 33 of the GST Act, there is an obligation on every person, who makes a supply for consideration and who is liable to pay tax for such supply, to prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made. It is argued that, the e-way bill being a document akin to a tax invoice, in relation to an assessment to tax, and not having carried the details regarding the tax amount, the transportation itself had to be viewed as in contravention of the Act and Rules for the purposes of Section 129

### Observations:

The power of detention under Section 129 is to be exercised only in cases where a transportation of goods is seen to be in contravention of the provisions of the Act and Rules and not simply because a document relevant for assessment does not contain details of tax payment. A reading of the Rule 138(A) of GST Rules clearly indicates that the e-way bill has to be in FORM GST EWB-01, and in that format, there is no field wherein the transporter is required to indicate the tax amount payable in respect of the goods transported. If the statutorily prescribed form does not contain a field for entering the details of the tax payable in the e-way bill, then the non-mentioning of the tax amount cannot be seen as an act in contravention of the rules.

### Judgement:

It was held that there was no contravention by the petitioner of any provision of the Act or Rule for the purposes of Section 129, the detention in the instant case cannot be said to be justified.

**Suresh Aggarwal, Advocate**

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