

GST and JOHNNY- UPDATE No.45

JOHNNY
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Yes, Papa!



Do You Know Goods can
be seized if No EWB is
not generated?



Yes Papa, but I
accidentally forgot to
generate e way bill. I
had no malafide
intentions behind it.



Let's
Discuss ?



This papa:- Since there is a specific requirement to generate way Bill as mandated under Sec 68 read with Rule 138 of the CGST Rules 2017, therefore violation of the law i.e. in non generation of e way bill, the goods can be seized as per section 129 of the CGST Act, 2017.

We are hereby referring to certain Case laws wherein judiciary decided in favour of Taxpayer. The decisive reason was that Goods can be detained only if, there is intention to evade tax. Merely non-furnishing of EWB is not sufficient to invite detention.

In case of Ashok Leyland Ltd. [2018] 93 taxmann.com 68 (Kerala) 26-10-17

The Seizing Authority had detained the goods as well as the vehicle on the ground that transportation of the goods was not accompanied by a valid copy of the stock transfer invoice/delivery challan that ought to have accompanied the goods as per the provisions of Rule 55 and insisted the assessee to pay the security deposit demanded in the detention notice as a condition for release of the goods and the vehicle. The assessee submitted that the necessary declarations under the CGST Rules were made in the electronic web system. Further, there is no dispute with regard to the genuineness of the invoice, a copy of which accompanied the transportation of the goods. Under the said circumstances, there need not be a detention of the goods for the purposes of determining the liability of the assessee to penalty. The Hon'ble HC of Kerala directs the Seizing Authority to release the goods and the vehicle to the assessee and complete adjudication in 2 weeks. No detention can be made where goods not accompanied by delivery challan as necessary declarations fed into the electronic web system.

The Judiciary being so kind in the instant case & observed that there was no such intention to evade Taxes on part of the taxpayer. But still the officer seized without considering the intention of the taxpayer which is a alerting point for taxpayers.

CA Pradeep Jain