

## **GST UPDATE ON HEAVY PENALTY CAN'T BE IMPOSED IN E WAY BILL ON SILLY MISTAKES**

Recently appellate authority of Himachal Pradesh in case of Mahalakshmi packagers manufacture (Appeal No.10/2019 dated 14.02.2020) ruled that Detention of vehicle and goods and imposition of tax/penalty on the ground of mismatch in vehicle no. mentioned in e-way Bill and actual vehicle number

The appellant dealer is importing Paper Board as raw material for manufacturing of Corrugated Boxes. His vehicle was intercepted for inspection and a silly clerical mistake was found in the E-way bill. The departmental authorities imposed huge tax and penalty for amounting to Rs. 57,708/- for such import.

The appellant has imported paper boards from M/s. B S J Papers Pvt. Ltd., Rohini Delhi vide tax Invoice No. BSJ/2018-19/6329, dated 02.12.2018 under the cover of e-way bill No. 761043333897 dated 02.12.2018 valid up to 6.12.2018.

On dated 4.12.2018 the Vehicle No. HP17B-4290 was intercepted by proper officer. The Proper Officer found that the Vehicle No. HP17B-1790 as mentioned in the invoice and e-way bill does not match with vehicle No. HP17B-4290 which was intercepted, therefore, he started proceedings u/s 129(1) and imposed a tax/penalty of Rs. 57,708/- under Section 129(3) of the CGST /HPGST Act, 2017.

Aggrieved by the order of officer, the assessee filed appeal in appellate authority, Himachal Pradesh. The petitioner has placed reliance on the CBIC Circular No. 64/38/2018-GST, dated 14th Sep., 2018 and State Government vide Circular No. 12-25/2018-19-EXN-GST-(575)-6009-6026, dated 13.03.2019 effective w.e.f. 14.09.2018, in para 5 provides that in case a consignment of goods is accompanied with an invoice or any other specified document and also an E-way bill, proceedings under Section 129 of the CGST Act may not be initiated inter alia in the following situations:

(a).....

(b).....

(f) Error in one or two digits/character of the vehicle no.

In case of the above situation, penalty to the tune of Rs. 500 each u/s 125 of CGST / HPGST Act should be imposed (Rs. 1,000 under the IGST Act) in FORM GST DRC-07 for every consignment.

The Respondent argued that the appellant failed to establish with substantial evidences that the appellant has changed the vehicle or has intention of evading the tax.

However, authority favoured appellant and said that there was no intention to evade tax and the proper officer has imposed penalty in a mechanical manner and has ignored the guidelines issued vide the above mentioned circular. Therefore, the tax/penalty under Section 129(3) of the CGST/HPGST Act, 2017 imposed is unsustainable.

As per the facts in hand it appears that the mistake of two digits while entering vehicle no. in invoice and E-way bill is a typographic error and may be treated as a minor one. Therefore, the appeal of the appellant is accepted. The authority directed that the additional demand of Rs. 57708/- deposited by the appellant may be refunded and the penalty of Rs. 500/- under SGST and Rs. 500/- under CGST u/s 125 of CGST/HPGST Act, 2017 to be imposed on the Appellant in accordance to CBIC Circular No. 64/38/2018-GST, dated 14th Sep, 2018 and the State Circular No. 12-25/2018-19-EXN-GST- (575)-6009-6026, dated 13th March, 2019.

Typing mistakes on e-Way bill where actually full and correct tax has been paid should not lead to detention of goods along with levy of penalty by the officers. The Government should issue clear instructions on this to the Tax Department so that businesses are not troubled for minor silly mistakes

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