Biharilal Chhaterpal vs. State of U.P. & Ors.

Seizure of goods and penalty for absence of e-way bill in inter-State movement – Sections 129 and 68 of the CGST Act, 2017 read with Section 20(xv) of the IGST Act, 2017 and Rule 138 of the CGST Rules, 2017.

Date of Order: November 16, 2021
Case Law No: GBI-AHC-2021-01
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts:

The petitioner's goods (barbed wire) being transported from Raipur (Chhattisgarh) to Sitapur (U.P.) were intercepted on 19.02.2018. The authorities seized the goods and imposed tax of ₹2,08,800 and equal penalty under Section 129(3) of the U.P. GST Act on the ground that the petitioner was not carrying a U.P. State e-way bill during transportation. The petitioner challenged the seizure and penalty orders before the High Court.

Court Decision:

The High Court held that the transaction involved inter-State movement of goods and therefore the provisions of the IGST Act and CGST Act would apply. At the relevant time (19.02.2018) the e-way bill system under the CGST Rules had not yet been implemented and the requirement of carrying a U.P. State e-way bill was not applicable to inter-State trade.

The Court further observed that the petitioner was carrying valid documents such as tax invoice, consignment note and national e-way bill and IGST had already been paid. As the transportation was bona fide and the requirement of State e-way bill was not applicable, the seizure and penalty orders passed under Section 129(3) of the U.P. GST Act were held to be unsustainable. The impugned orders were quashed and the authorities were directed to refund the amount deposited as tax and penalty.

Cases Referred by Court:

- Satyendra Goods Transport Corp. vs. State of U.P. & Ors.
- ASCICS Trading Company vs. Assistant State Tax Officer & Anr.
- Godrej & Boyce Manufacturing Co. Ltd. vs. State of U.P.
- Shaurya Enterprises vs. State of U.P. & Ors.

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