Shamhu Saran Agarwal and Company vs Additional Commissioner Grade-2 & Others

Whether goods can be detained and penalty imposed under Section 129 GST Act on the ground of undervaluation.

Date of Order: January 31, 2024
Case Law No: GIB- AHC-2024-05
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts :
The petitioner challenged penalty order dated 20.12.2020 and appellate order dated 17.09.2021 arising from detention of goods in transit.
The goods were detained solely on the allegation of undervaluation despite accompanying invoice, e-way bill, and proper documents.
The appellate authority affirmed the penalty on the same ground of undervaluation.
The petitioner relied on departmental circular stating that goods should not be detained merely on valuation disputes.

Court Decision:
The Court held that undervaluation is not a valid ground for detention of goods under Section 129 of the Act.
Where all documents are proper and there is no discrepancy, detention cannot be justified on valuation issues.
Issues of undervaluation must be examined through proceedings under Sections 73 or 74 of the GST Act and not through detention proceedings.
Penalty imposed under Section 129 on mere suspicion of undervaluation was held unsustainable and set aside.
The impugned orders were quashed and consequential relief including refund was directed.

Cases Referred:

- *Hindustan Coca Cola Pvt. Ltd. vs Assistant State Tax Officer*
- *N.V.K. Mohammed Sulthan Rawther's case*
- *J.K. Synthetics Ltd. vs Commercial Taxes Officer*

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