

Shamhu Saran Agarwal and Company v. Additional Commissioner Grade-2 & Ors.

Legality of detention and penalty under Section 129 GST on ground of undervaluation of goods

Date of Order: January 31, 2024
Case Law No: GIB- AHC-2024-07
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts :

The petitioner challenged a penalty order dated 20.12.2020 and appellate order dated 17.09.2021 passed under GST law. The goods were detained during transit solely on the ground of alleged undervaluation. All documents including invoice and e-way bill were available and there was no discrepancy in description of goods. The detention and penalty were confirmed by the authorities on the same ground.

Court Decision:

The Court held that undervaluation is not a valid ground for detention of goods under Section 129. It observed that when documents are proper and there is no mismatch, detention cannot be justified merely on valuation issues. The Court held that in cases of undervaluation, proceedings must be initiated under Sections 73 or 74 and not by detention and penalty during transit. Accordingly, the impugned penalty and appellate orders were quashed and set aside, with direction to refund any deposited amount.

Cases Referred:

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