Om Prakash v. Islam Trading Co.

Validity of detention and penalty under Section 129(3) of the UPGST Act, 2017 for transportation of goods without an e-way bill under Rule 138(1). Whether subsequent generation of an e-way bill can cure the violation existing at the time of interception.

Date of Order: August 20, 2026
Case Law No: GIB-GSTAT-2026-82
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

Iron scrap being transported with tax invoices and other documents was intercepted without an e-way bill. Proceedings under Section 129 were initiated and tax and penalty were imposed. The First Appellate Authority subsequently set aside the order on the ground that the e-way bill was produced later during the proceedings.

The Revenue challenged that decision, contending that the e-way bill was mandatory at the time of transportation and that subsequent generation could not cure the statutory violation. The Tribunal also considered the nature of the electronic e-way bill mechanism compared with manually generated invoices.

COURT OBSERVATION

The Tribunal held that generation of an e-way bill is a statutory requirement intended to ensure transparency and prevent tax evasion. A subsequently generated e-way bill could not be treated as curing the violation existing at the time of interception because the e-way bill is electronically generated and time-stamped.

The Tribunal further found that the circumstances of the transportation, including the nature and route of the goods, supported the conclusion that there was an intention to evade tax. It therefore found that the First Appellate Authority had erred in interfering with the Section 129(3) order.

FINAL VERDICT

The Revenue's appeal was allowed. The order dated 09.03.2018 passed under Section 129(3) imposing tax and penalty was restored, and the order of the First Appellate Authority setting it aside was quashed.