SIDDHI VINAYAK AUTOMOBILES v. COMMISSIONER OF KERALA STATE GST, THIRUVANANTHAPURAM

Validity of penalty under Section 129(3) of the CGST/KGST Acts, 2017 for transportation without an e-way bill at the time of interception. Whether an order passed beyond the mandatory seven-day period prescribed under Section 129(3) is legally sustainable

Date of Order: August 14, 2026
Case Law No: GIB-GSTAT-2026-84
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

Automobile spare parts were transported under e-invoices, but the vehicle was intercepted without an e-way bill. Proceedings under Section 129 were initiated and penalty was imposed. The goods and conveyance were subsequently released on furnishing security, but the penalty order in MOV-09 was passed 47 days after the MOV-07 notice.

The appellant contended that the supplies were covered by valid e-invoices, GST had been paid and there was no intention to evade tax. The Tribunal considered whether the seven-day period in Section 129(3) was mandatory and whether the delayed order was void.

COURT OBSERVATION

The Tribunal held that the word “shall” used in Section 129(3) demonstrated the legislative intent that the prescribed timelines were mandatory. The fiscal nature of the statute also required strict construction. The absence of an express consequence for non-compliance did not make the seven-day period directory.

The Tribunal further found that the e-invoices had been generated electronically and the corresponding GST had been paid through returns. Therefore, there was no material showing mens rea to evade tax merely because the e-way bill had not been generated.

FINAL VERDICT

The Tribunal held that the order under Section 129(3) had not been passed within the mandatory seven-day period. The MOV-09 order dated 04.06.2022, passed 47 days after the MOV-07 notice, was therefore illegal and without jurisdiction.

The impugned Order-in-Appeal was set aside and the appeal was allowed with consequential relief. The respondent was directed to release the Bank Guarantee immediately.

CASE REFERRED BY COURT

- Mohd Hazzak Lohar & Others v. Commissioner of State Tax, J&K — High Court of Jammu & Kashmir and Ladakh
- Allcargo Logistics Limited v. State of Gujarat — Gujarat High Court
- Khatu Enterprises v. State of Gujarat — Gujarat High Court
- Deepam Roadways v. Deputy State Tax Officer, Chennai — Madras High
- Udhayam Steels (P.) Ltd. v. Deputy Tax Officer (Int.) — Madras High Court — 28.12.2022.
- D.K. Enterprises v. Assistant/Deputy Commissioner (ST) — Madras High Court — 29.08.2022.
- Pawan Carrying Corporation v. State of Bihar — Patna High Court
- K.P. Sugandh Ltd. v. Chief Commissioner of CT & GST, Odisha