M.S. STEELS v. THE COMMISSIONER OF KERALA STATE GST

Whether penalty under Section 129 of the CGST/KGST Acts, 2017 is leviable on internal stock transfer without an e-way bill. Applicability of Sections 7, 9, 68 and 129 read with Rule 138(1)(ii) to movement between premises of the same registered person.

Date of Order: August 14, 2026
Case Law No: GIB-GSTAT-2026-88
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

Goods were transported from one registered premises to another registered premises of the same registered person under a delivery challan. During transit, the goods were intercepted because no e-way bill was available, and penalty was imposed under Section 129(3), without any tax demand.

The First Appellate Authority upheld the penalty. The dispute before the Tribunal was whether an internal stock transfer, which did not constitute a taxable supply, could attract penalty under Section 129 merely because the e-way bill was not generated.

COURT OBSERVATION

The Tribunal held that the movement involved only one registered person, with no second entity and no consideration. It therefore did not constitute a "supply" under Section 7. Consequently, Section 9 did not create any tax liability on the movement.

Since Section 129(1) computes penalty with reference to "tax payable on such goods", and there was no tax payable on the stock transfer, the Tribunal held that penalty under Section 129 was not leviable. The Tribunal also found that the appellate authority had not given any reason, other than absence of an e-way bill, for treating the transaction as non-genuine.

The Tribunal applied the ratio of Fabricship Pvt. Ltd. and held that where the transaction does not involve two distinct entities and there is no consideration, it falls outside the charging provisions and consequently outside Section 129.

FINAL VERDICT

The Tribunal answered the question of law in the negative, holding that penalty under Section 129 is not leviable for transport without an e-way bill when the movement is on account of stock transfer. The impugned Order-in-Appeal was set aside and the appeal was allowed with consequential relief.

CASE REFERRED BY COURT

Fabricship Pvt. Ltd. v. Union of India — Bombay High Court
Vacmet India Ltd. v. Additional Commissioner Grade-2 (Appeal) — Allahabad High Court — 17.10.2023.
Goverdhan Oil Mill v. Additional Commissioner — Allahabad High Court — 10.04.2024.