Arhaan Ferrous and Non-Ferrous Solutions Pvt. Ltd. & Anr. v. State of Andhra Pradesh & Ors.

Detention/confiscation of goods under Sections 129 & 130 where proceedings were initiated against an alleged fictitious seller.

Date of Order: August 3, 2023
Case Law No: GIB-APHC-2023-13
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The petitioners challenged the detention of iron scrap and the vehicles transporting it while the goods were in transit from Vijayawada to Sankarampet, Telangana. The goods were accompanied by invoices, e-way bills and other documents. The Revenue detained the consignment on the ground that the seller shown in the documents did not have a place of business at Vijayawada and subsequently alleged that the seller was a fictitious/non-existing entity. The seller's GST registration was suspended and proceedings under **Section 130** were initiated against him.

The petitioners contended that they had purchased the goods for valuable consideration after verifying the seller's GST registration on the official portal and that, at the time of interception, the goods were accompanied by valid documents. They argued that if the Revenue had any doubt regarding the transaction or the petitioners' bona fides, proceedings under **Section 129** ought to have been initiated against them, rather than applying the Section 130 proceedings against the seller to the petitioners' goods.

Court Observation

The Court examined **Section 68** and **Rule 138A** concerning inspection of goods in movement and the documents required to accompany a consignment. It noted that the officer had the authority to intercept and verify the goods and documents. However, the principal issue was whether the petitioners' goods could be confiscated merely because proceedings had been initiated against the seller under Section 130.

Relying upon the distinction between Sections **129 and 130**, the Court held that detention proceedings under Section 129 and confiscation proceedings under Section 130 operate in different contexts. The Court observed that although proceedings could be initiated against the seller under

Section 130 because of his doubtful existence and business credentials, the petitioners' goods could not be confiscated merely because they had purchased the goods from that seller.

The Court further observed that the petitioners' responsibility was to establish their own bona fides—namely, that they had purchased the goods for valuable consideration after verifying the seller's GST registration and that the transaction, payment and receipt of goods were supported by authenticated documents. They could not, however, be expected to establish the seller's business activities or whether the seller had obtained registration through fabricated documents. The Revenue was therefore required to initiate **independent proceedings under [Section 129](#)** against the petitioners if it intended to proceed against their goods.

Final Verdict

The High Court disposed of the writ petitions and granted liberty to the first respondent to initiate proceedings against the petitioners **under Section 129 of the CGST/APGST Act, 2017 within two weeks** from receipt of the order. The petitioners were to be given an opportunity of hearing and the matter was to be decided in accordance with law.

In the meantime, the detained goods were directed to be released in favour of the purchaser on deposit of **25% of their value** and execution of a personal bond for the balance. The vehicles were also directed to be released upon execution of personal security bonds for their value as determined by the concerned Road Transport Authority. **No costs** were awarded.

Cases Referred by the Court

1. **Rajeev Traders v. Union of India** — High Court of Karnataka, Dharwad Bench — **Order dated 16.08.2022**, W.P. No. 100849/2022 (T-RES). The Court relied upon this decision for the distinction between the powers of detention under Section 129 and confiscation under Section 130.

2. **Synergy Fertichem Pvt. Ltd. v. State of Gujarat** — High Court of Gujarat — **2020 (33) G.S.T.L. 513 (Guj.) / MANU/GJ/3200/2019**. The Court referred to this decision for the proposition that Sections 129 and 130 are independent and mutually exclusive provisions dealing respectively with detention/seizure/release and confiscation.