Anopsinh Kiritsinh Sarvaiya v. State of Gujarat

Sealing of a godown under Section 67 for more than a year without any search, challenged by the owner who had let it to other dealers.

Date of Order: February 6, 2020
Case Law No: GIB-GUJHC-2020-01
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

On 17 and 19 November 2018 the State tax authorities sealed Godown No. 14 in a market yard in Gondal, let to five dealers, because the authorised person was absent, and for alleged wrong ITC and non-cooperation by the dealers. No search or seizure followed. The owner, who was not accused of any wrongdoing, said the seal could not stay for an indefinite period and that the Department could proceed against the dealers separately.

Final Verdict

The Court found that the reasons recorded in the sealing memos were mere accusations against the dealers and gave no reason why the search was not carried out. It observed that **once goods and documents are seized from the premises there is no good reason to keep the godown sealed**, and that nothing was shown to indicate that the proper officer had reasons to believe that goods liable to confiscation were stored there.

The writ application was disposed of with directions: the officials were to break the seal and search the godown on 10.02.2020 and seize anything for which they had reasons to believe, after which the owner could take possession. The authorities cannot insist on proof of ownership or the rent agreement, and the Department remains free to proceed against the dealers.

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