Deepak Khandelwal v. Commissioner CGST Delhi West

Whether cash and silver seized during a Section 67(2) search of a residence can be held under the GST Act.

Date of Order: August 17, 2023
Case Law No: GIB-DHC-2023-18
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

On 28.01.2020 the department searched the petitioner's residence in Rohini and seized Rs 7,00,000 in cash, two silver bars weighing about 29.5 kg and 14.5 kg, mobile phones, books and cheque books. He was arrested the next day and granted bail in March 2020. The later Section 74 notice of 10.11.2020 did not rely on the seized items. He sought their release.

Final Verdict

The Court held that money is excluded from "goods" under Section 2(52), and that "things" in Section 67(2) must be read with "documents and books", so that it does not extend to cash or bullion. **Section 67 is a drastic power and must be construed narrowly; it is not a tool for seizing unaccounted wealth, which is a matter for the Income Tax Act.** The Court declined to follow the contrary view of the Madhya Pradesh High Court in Kanishka Matta.

Since Section 67(3) requires return of things not relied on, the writ was allowed and the items were ordered to be released. The department remains free to take any other action in law.

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