ACUPRO CONSULTING

WEEK 1, FEBRUARY 2023

THE GST PULSE

ONE PLACE FOR ALL THE UPDATES



Recent Judgement and Rulings

MERE EXPIRY OF E-WAY BILL DOES NOT CREATE ANY SCOPE FOR EVASION

HON'BLE MADRAS HIGH COURT

Tvl. Thiruvannamalaiyar Transport ("the Petitioner") was carrying a consignment of 'Angles' ("the goods") in a truck from Gummidipoondi to Ranipet which was intercepted during transit around 4.00 A.M. on December 2, 2022. The goods were subsequently detained on the grounds that the E-way bill had expired. An order dated December 8, 2022 ("the Impugned Order") was passed imposing a penalty of INR 6,76,764/- on the Petitioner.

The Petitioner contended that the consignment was delayed due to break down and repair of the truck carrying consignment and the E-way bill elapsed at 23:59 hours on December 1, 2022. However, the Revenue Department ("the Respondent") contended that, the driver of the truck carrying the consignment did not mention about breakdown and repair and further no steps were taken for extending the E-way bill. The Petitioner filed a writ petition whether the truck carrying consignment with expired E-way bill is liable to be detained under Section 129(3) of the CGST Act.

The Hon'ble Madras High Court stated that the expiry of E-way bill does not create any scope for evasion. Thus, in absence of evasion there can be no revenue loss to the Respondent. Hence the impugned order was set aside and the petitioner was directed to pay a penalty of Rs.5,000 as per the. Circular No. 10/2019, Q1/17253/2019 dated May 31, 2019. The Circular states that if any of the below mentioned documents such as invoice or bill of supply or delivery challan or E-way bill is not available then the penalty may be levied.



NO GST ON ISSUANCE OF PREPAID PAYMENT INSTRUMENT VOUCHERS

HON'BLE KARNATAKA HIGH COURT

M/s Premier Sales Promotion Private Limited ("the Petitioner") is engaged in the transactions of procuring Pre-paid Instruments of Gift vouchers, Cashback vouchers and E-vouchers from the issuers and supplying them to its clients for specified face value. The petitioner's clients issue such vouchers to their employees in the form of incentive to other beneficiaries under promotional schemes for use as consideration for purchase of goods or services or both.

The issue arises that whether the vouchers themselves are chargeable to tax at the time of issuance of vouchers or chargeable when goods and services are redeemed.

The Hon'ble Karnataka High Court held that, the issuance of vouchers is similar to pre-deposit instruments, which have no inherent value of their own. Therefore, it does not fall under the category of supply of goods or services. Hence, vouchers being neither goods nor services, are exempted from the levy of taxes.



CONDONED THE DELAY IN PERIOD OF LIMITATION FOR FILLING THE APPEAL BY THE ASSESSEE

HON'BLE GUJARAT HIGH COURT

M/s. Manjeet Cotton Pvt. Ltd. ("the Petitioner") is in the business of trading of cotton barns, cotton yarn etc. The Revenue department ("The Respondent") issued a Show Cause Notice (SCN) alleging that the petitioner had received certain nil rated or exempted supplies, but had not reversed the Input Tax Credit ("ITC") related to the said supply and raised a demand of INR 36,15,696/- with an interest of 24%p.a. The petitioner failed to submit a reply to the above SCN. Subsequently, search Proceedings under Section 67(2) of the CGST Act was carried out at the registered premise of the Petitioner on February 17, 2022.

The Petitioner reversed the ITC accounting to INR 1,19,149/- along with the interest pertaining to the year 2017-18 to 2020-21. The Respondent in the month of June, 2022, debited the Electronic Credit Ledger ("ECL") of the Petitioner against the demand raised vide its Order dated February 21, 2022. Also the bank account of the petitioner was froze on the directions of the respondent. The petitioner approached the High court for allowing to appeal before the Appellate Authority even when it was beyond the period of appeal.

The Hon'ble Gujarat High Court observed that the petitioner did not submit a reply nor appeared before the respondent. Further observed that, the officer concerned cannot be held responsible as it had already granted the opportunity of hearing to the Petitioner. The Hon'ble Court held that, the assessee has the right to challenge the assessment order, by appealing to the Appellate Authority, and such right should be exercised to maintain the possibility of addressing a larger issue. Further directed that, there shall be no further coercive recovery and Petitioner shall be entitled to operate its bank account, till the matter is decided.



Thank You!

ALOK VASANT
PARTNER
TEL: + 91 9811008421
ALOK.VASANT@ACUPROCONSULTING.COM

BALWAN BANSAL
PARTNER
TEL: + 91 9871767277
BALWAN.BANSAL@ACUPROCONSULTING.COM

ANKIT JAIN
PARTNER
TEL: + 91 9811665549
ANKIT.JAIN@ACUPROCONSULTING.COM



NEWSLETTER CONTRIBUTORS
PANKAJ BANSAL
TARUN GUPTA
SHYAM SOMANI

FOR MORE INFO VISIT
WWW.ACUPROCONSULTING.COM

COMMUNICATION ADDRESSES:
DELHI/NCR

ACUPRO CONSULTING
2ND FLOOR, 108, UDYOG VIHAR,
PHASE I,
GURGAON - 122016
HARYANA, INDIA
PH: +91 124-4ACUPRO(228776)

HTTPS://WWW.LINKEDIN.COM/COMPANY/ACUPROCONSULTINGINDIA/