

Detention of goods for not carrying e-way bill unsustainable in absence of e-way bill system – Allahabad HC

29 November 2021



Summary

The Allahabad High Court (HC) observed that in the present case, there was no system of e-way bill in place under the GST law. It was an inter-state transportation of goods, therefore, the State GST Act 2017 did not apply and by virtue of Section 20(15) of the Integrated Goods and Services Act, 2017, it was the Central Goods and Services Tax Act, 2017 which would apply in respect of matters of inspection, search, seizure, and arrest. In the present case, the inter-state transfer of goods took place along with tax invoice and other documents and it cannot be considered as a fraudulent transaction. Therefore, the HC held that the insistence by the State authorities that the petitioner's vehicle was not carrying the State e-way bill is without any factual and legal basis

Facts of the case

- The petitioner¹ challenged the order of the Assistant Commissioner and Additional Commissioner wherein GST @18% on the value of goods seized during interception and an equivalent penalty was also imposed².
- Both the authorities had held that the petitioner was not carrying the U.P. e-way bill on the date of interception of goods.
- The petitioner contended that at that time, there was no provision of e-way bill in place and it had carried all other relevant documents, including tax invoice.

Allahabad HC observations and ruling³:

- **Absence of e-way bill system:** In the instant case, goods being transported were intercepted when there was no system of e-way bill in place under the GST law.
- **State GST act inapplicable:** It was an inter-state transportation of goods, therefore, the State GST Act 2017 did not apply and by virtue of Section 20(15)

of the said Integrated Goods and Services Act, 2017 it was the Central Goods and Services Tax Act, 2017 which would apply in respect of matters of inspection, search, seizure, and arrest.

- **No requirement to carry State e-way bill:** It being an inter-state transfer of goods, there was no requirement of carrying the U.P. State e-way bill. Therefore, the insistence by the State authorities that the petitioner's vehicle was not carrying the U.P. e-way bill is without any factual and legal basis.
- **Not a fraudulent transaction:** The petitioner had also paid applicable IGST @18% and the goods were transported along with the tax invoice and other documents. Therefore, it was not a fraudulent transaction and there was nothing on record to show otherwise.
- **Writ allowed:** Thus, the HC allowed the writ and directed the revenue to refund the amount deposited by the petitioner as tax and penalty within two months.

¹ Biharlilal Chhaterpal Thru Prop. Ramesh Kumar Gupta

² MISC. SINGLE No. - 29323 of 2019

³ Dated 16 November 2021

Our comments

On a similar issue, earlier, the Allahabad HC⁴ had held that in an inter-state transfer of goods, there was no requirement of carrying the U.P. State e-way bill. In another case, the HC⁵ had held that till 31 December 2018, it was not mandatory to download e-way bill from the official portal and, therefore, it had held that the goods were genuinely dispatched and were illegally and arbitrarily detained by the revenue.

The present ruling by the Allahabad HC is in line with its earlier pronouncements and shall provide required relief to the businesses as also set precedence in similar matters.

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⁵ M/s Shaurya Enterprises

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