

# Detention of Goods on account for Discrepancy in Address of Actual Supply and Address as per Way Bill

Telangana High Court in *M/S. Sree Rama Steels Versus The Deputy State Tax Officer And 3 Others*

## **Facts**

Vendor (Jeevaka Industries Private Limited) has issued the Invoice and E-Way Bill for the supply of the goods on the Petitioner.

While the goods were in transit, the Petitioner received an order from from M/s.Laxmi Narasimha Constructions, Proddatur for supply of goods.

M/s.Laxmi Narasimha Constructions requested the petitioner to deliver the goods directly to their shop work site, i.e., M/s. JVS Switchgear LLP at Katedan/Mailardevpally, Rajendranagar, Ranga Reddy District.

## **Grounds for Detention**

Tax Invoice as well as e- Way Bill with regard to the consignment of goods being carried by transporter, and they showed that goods were being transported from M/s. Jeevaka Industries Private Limited, Chegunta Mandal, Medak District, Telangana to the petitioner at its address in Proddatur, Andhra Pradesh

Documents are for transporting the goods to Proddatur, Andhra Pradesh but the vehicle was proceeding to deliver the goods at Katedan. 1st respondent detained the same by issuing an order of detention in Form GST-MOV06

Petitioner always had an option available in the e-Way Bill to disclose the place of unloading, but it did not happen in the instant case.

Goods vehicle was found at destination not being the one mentioned in the invoice

## **Payment under Protest**

Since the transporter was pressurizing the petitioner to get his vehicle released, the petitioner paid on 30.1.2020 *under protest* total tax and penalty

## **Held**

Once the conveyance/vehicle driver had the tax invoice and the e-way bill, there is prima facie compliance with the provisions of the CGST Act and Telanaga GST Act and the rules made thereunder and as per para 5 of the circular dt.14.9.2018 referred to above, it did not warrant initiating of proceedings under Sdc.129 of the Telangana GST Act,2017.

Views of Hon'ble High Court of Gujarat has been upheld

(i) that at the time of detention and seizure of goods or conveyance, the **first thing** the authorities need to look into closely is the nature of the contravention of the provisions of the Act or the Rule;

(ii) the **second step** in the process for the authorities to examine closely is whether such contravention of the provisions of the Act or the Rules was with an intent to evade the payment of tax;

(iii) **a holistic reading of the statutory provisions and the Circular noted above, indicates that the Department does not paint all violations/transgressions with the same brush and makes a distinction between serious and substantive violations and those that are minor/procedural in nature;**

Para 68 It is not as if when goods are in transit there is a prohibition of their sale by the purchaser to a third party. In fact the court can take judicial notice that it is quite a common thing and a well recognized trade practice.

It is important to note that interpretation of taxing statutes should be done in a way to facilitate business and inter-State trading, and not in a perverse manner which would result in impediment of the same by harassing business persons.

If the intention of the petitioner to unload the goods at Katedan, Hyderabad is pursuant to a request from its purchaser to deliver at the latter's Job work site in Katedan *and not to evade the tax or contravene any provision of law*, no adverse inference can be drawn against the petitioner.

The respondents are directed to refund the said amount with interest at the rate of 6 % per annum from 30.01.2020 till date of payment within 6 weeks.