

05 October 2023

Issue Involved

Validity of Writ Petition when alternate remedy is available under the provision of the applicable act.

Held that

Where conveyance was intercepted and order of detention under section 129(1) was passed on ground of mismatch of delivery address, since alternate remedy was available under section 107, petition was disposed directing assessee to file a statutory appeal

Case Reference

[2023] 151 taxmann.com 86 (Delhi)

“

Facts of the Case:

Revenue:

- The Revenue argued that during the transportation of goods, a conveyance was intercepted, and a physical verification was conducted on the same day.
- It was found that there was a mismatch in the delivery address, leading the department to pass an order of detention under Section 129(1) of the GST Act. The revenue contended that the detention order was justified based on the discrepancy in the address.

Petitioner:

- The petitioner challenged the order of detention passed by the department. They argued that all the tax invoices and e-way bills clearly mentioned the address and GSTIN/UIN details, and the transaction was arranged as a "Bill to" - "Ship to" arrangement.
- Despite the driver providing the relevant documents, including sales e-invoices and e-way bills, the goods vehicle was detained under Section 129(1) on the grounds of a mismatch in the delivery address. The petitioner asserted that there was no discrepancy in the quantity of goods carried in the vehicle.
- The petitioner contended that the impugned order of detention was illegal, arbitrary, and void ab initio. They sought the quashing of the order through the writ petition and requested the court to provide appropriate relief, considering the factual circumstances of the case.

“

Contributed By



CA Vaibhav Jain

Partner

vaibhavjain@mehragoelco.com



CA Prashant Agrawal

Assistant Manager- Taxation

prashantagrawal@mehragoelco.com



Summary:

In Thiruchy Royal Steels' case, the High Court of Madras dealt with a writ petition challenging an order of detention passed under Section 129(1) of the Central Goods and Services Tax (GST) Act. The detention order was issued due to a mismatch of delivery address during the transportation of goods. The court noted that there were disputed questions of facts, which could not be addressed in a writ petition when an alternative remedy was available under Section 107 of the GST Act. Consequently, the court disposed of the petition, directing the petitioner to file a statutory appeal and apply for provisional release of the detained goods and vehicle under Section 129(1). The statutory appellate authority was instructed to consider the release of goods and vehicle and decide the appeal within four weeks. The petitioner had expressed willingness to furnish a bank guarantee for the penalty amount. The court emphasized that the order on the application made under Section 129(6) should be expedited without delay.

Notes to News & Updates:

Please note that Facts of the Case and Queries are as summarized by us based on our reading of case law and our interpretation based on law prevailing as on the judgement date. No assurance is being given on the correctness of the facts, and our opinion / analysis is given solely based on facts provided herein above.

Please note that this news and update is prepared by author for spreading knowledge, and the view is a matter of interpretation, and law is subject to various interpretations. The application of law and impact can vary widely based on the specific facts and interpretation of statute. Our views expressed above is based on facts and assumptions indicated above. No assurance is given that the authorities and/or Courts will concur with our views. We do not accept any liability, for any loss or damage caused as a result of any action taken on the above opinion expressed by us.

We hope you will find the above in order and we shall be too glad to provide any other assistance as may be required. In case you are looking specific expert help in relation to matters connected to this update or otherwise, please feel free to write to us on vaibhavjain@mehragoelco.com ; mg@mehragoelco.com

New Delhi

503, Chiranjiv Tower, 43,
Nehru Place, New Delhi 110019. India
+91-11-2622-3712, 26226933

Pune

Flat No 03, Plot No 28,
Gowardhan Housing Society,
Maharshi Nagar, Pune – 411037

Gurugram

GLOBAL BUSINESS SQUARE
Building No. 32, Sector 44,
Institutional Area, Gurgaon, 122002, India
Tel : +91-124-4786200

Chennai

Sri Raghava Nilayam, Old No 38 , New No
28, West Circular Road, Mandavelipakkam,
Chennai, Tamil Nadu, India, 600028

Mumbai

305-306, Garnet Palladium,
Goregaon (East), Mumbai,
Maharashtra-400063

Dubai (UAE):

R-3035, Reef Tower,
Cluster O, Jumeriah Lake Tower,
Dubai, UAE.

