



Madras HC: Citing mere technical breach without intention to evade tax, quashes penalty order.

Re. Smart Roofing Pvt Ltd. vs. The State Tax Officer

Madras HC, on considering that there was only a technical breach on the Assessee's part, with no intention to evade tax, quashes Revenue's order in Form GST MOV-09 imposing penalty u/s 129(3) of the CGST Act, and directs Authorities to release the vehicle; Notes that Assessee had consigned the goods from its main place of business at Chennai to its additional place of business which albeit was not the additional place of business as per the original registration certificate obtained by the Assessee; However, in the E-way bill and the delivery Challan, the Assessee had declared the consignee address as something else, though the consignment was meant for being discharged at its new place of business; Elucidates that though the Authorities were justified in detaining the goods inasmuch as there is a wrong declaration in the E-way bill, the facts however indicate that the consignor and the consignee are one and the same entity, namely, Head Office and the Branch Office; Highlights that in the present case, the Assessee has a new place of business, but has not altered the GST Registration, but steps have been taken to ex post facto include the new place of business altering the GST Registration and the registration certificate has also been amended.

Decision Summary

Assessee approached Madras HC, challenging Revenue's impugned order in Form GST MOV-09 seeking to impose penalty of Rs. 2,50,387/- under CGST and SGST each, totally for a sum of Rs.5,00,774/- under Section 129(3) of the CGST Act, 2017.

Assessee had consigned the goods from its main place of business at Chennai to its additional place of business (but it was not the additional place of business, as per the original registration certificate obtained by the Assessee). However, in the E-way bill and the delivery Challan, the Assessee had declared the consignee as 130, Ring Road Chintamani, Madurai, though the consignment was meant for being discharged at its new place of business at Sastha Mombalan Modern Rice Mill, 3/237-B, Chintamani Road, Anupandi, Madurai, Tamil Nadu 625 009.

Under these circumstances, the consignment along with lorry was detained and SCN was issued which culminated in the impugned order.

Assessee claimed that there was no intention to evade tax as it had generated E-way bill by declaring the consignee as its additional place of business and that ex post facto, i.e., on the date, Assessee had taken steps for amending the registration by including Sastha Mombalan Modern Rice Mill, 3/237-B, Chintamani Road, Anupandi, Madurai, Tamil Nadu 625 009 also as the additional place of business.

Assessee argued that the imposition of penalty under Section 129 (3) of the CGST and SGST was unwarranted under the circumstances.



Revenue countered that the Assessee had an alternate remedy under Section 107 of CGST Act, 2017/SGST Act, 2017 and therefore there were no merits in the writ petition.

HC observations:

HC elucidated that though the Authorities acting under the Act were justified in detaining the goods inasmuch as there is a wrong declaration in the E-way bill, however, the facts indicate that the consignor and the consignee are one and the same entity, namely, Head Office and the Branch Office.

HC stated that in the present case, the Assessee has a new place of business, but had not altered the GST Registration, however, steps have been taken to ex-post facto, to include the new place of business altering the GST Registration and the registration certificate had also been amended.

Considering that there was only a technical breach committed by the Assessee and there was no intention to evade tax, HC quashed the impugned order.

Therefore, HC allowed the writ with a direction to the Authorities to release the vehicle and the consignment to the Assessee.