



**Tripura HC: No justification for in-transit stoppage of goods/vehicle in transaction between registered dealers.**

Tripura HC holds that there is no justification for stoppage in transit of the vehicle and goods (construction machinery) where the transaction admittedly is between two registered dealers located in two different states; While directing Assessee to submit an undertaking or bond to Check gate Officer who shall release the vehicle as well as the goods seized by Revenue, remarks, “to enhance the ease of business it is also necessary for the rule making authority to reconsider in their best wisdom whether the requirement of fixation of the period of time in the e-way bill is at all appropriate requirement in the circumstances?”; Considering similar instances noticed by this Court in the past, determines that, “any impact on the free-flow of goods and services (bona fide) ought to be encouraged and not discouraged since the free-flow and movement of goods and services throughout the Union of India is meant to be for the purpose of development of the nation”; Observes that since the transaction in question was between two registered dealers under the GST Act covered by the e-way bill (even if the e-way bill has expired just prior to date of entry into the State) and other documents where genuineness was not in doubt, vehicles carrying such goods ought to be permitted to continue with such carrying subject of course to either the check gate officer informing the assessing officer where the buyer is located and further direct the buyer to appear before the assessing officer to provide an opportunity to the buyer or seller to take such corrective steps as may be necessary in the matter; Elucidates that, vehicles stranded for which the department has been charging additional higher charges but the equipment loaded on the truck remains unutilized and the buyer is prevented from using that machinery for the contracts, emphasises that “balance has to be brought between transportation of goods as well as the taxing event i.e. the sale or purchase of goods of service”, also directs Assessee provide such information to the assessing officer of both the seller and buyer who may be at liberty to initiate appropriate action against the registered dealer who shall be duty bound in law to make such compliances failing which they shall be liable for whatever consequences law has prescribed.

Assessee is engaged in the business of selling of construction machinery and sold certain construction materials to a buyer in Agartala from Silchar (State of Assam) and the said machine was transported through a truck/trailer and the said vehicle was used to transport the materials from Silchar to Agartala.

Assessee asserted that the vehicle was carrying all valid documents pertaining to the machinery sold including the sale invoice, temporary registration certificate, insurance policy and e-way bill valid upto March 17, 2022 and that t on the way the vehicle under which the goods were being transported, faced



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certain technical problems and when the vehicle reached at Churaibari on March 18, by the said time the e-way bill had expired.

The vehicle was detained and the goods were seized. The writ came to be filed seeking release of the vehicle and the goods.

Assessee submitted that the e-way bill under which the goods were being moved from Silchar to Agartala was issued by the buyer who is a registered contractor in the State of Tripura and the buyer purchased the said equipment for the purpose of utilizing the same to carry out his contractual obligation to the State of Tripura under certain contract.

Assessee stated that such seizure and detection of the vehicle at the entry point into the State of Tripura has caused an impediment on the free-flow of goods and services within the Union of India and pointed out that it only had an 8-hour window of Rule 138, sub-rule (10) of the GST Rules, 2017 to seek any extension thereof.

### **HC observations:**

HC determined that any impact on the free-flow of goods and services (bona fide) ought to be encouraged and not discouraged since the free-flow and movement of goods and services throughout the Union of India is meant to be for the purpose of development of the nation.

HC explained that no doubt the rule making authorities have the authority to put conditions such as requirement of an e-way bill to cover the goods that have been transported, however, it must not be lost sight of the fact that an e-way bill has supplied to cover the goods under the transit by a registered dealer under the GST Act.

HC observed that since the transaction in question was between two registered dealers under the GST Act covered by the e-way bill and other documents where genuineness was not in doubt, vehicles carrying such goods ought to be permitted to continue with such carrying subject of course to either the check gate officer informing the assessing officer where the buyer is located and further direct the buyer to appear before the assessing officer to provide an opportunity to the buyer or seller to take such corrective steps as may be necessary in the matter.

HC held that since the transaction admittedly is between two registered dealers located in two different states, there is no justification for stoppage in transit of the vehicle and goods.



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HC while opining that “balance has to be brought between transportation of goods as well as the taxing event i.e. the sale or purchase of goods of service”, envisaged that there is no doubt that a transaction is made between two registered dealers and is covered by the necessary documents including the e-way bill even if the e-way bill has expired just prior to the date of entry into the State, such goods ought not to be stopped and instead an undertaking should be taken from the buyer or the seller and intimation should be provided to the assessing officer of both the parties before whom the buyer or seller may appear to make necessary compliance.

HC pointed out that the vehicles stranded for which the department has been charging additional higher charges but the equipment loaded on the truck remains unutilized and the buyer is prevented from using that machinery for the contracts, therefore, to enhance the ease of business it is also necessary for the rule making authority to reconsider in their best wisdom whether the requirement of fixation of the period of time in the e-way bill is at all appropriate requirement in the circumstances.

HC disposed of the writ with a direction to the Assessee to appear before the check gate officer and to submit an undertaking or bond before the check gate officer and the check gate officer shall release the vehicle as well as the goods by accepting the undertaking or bond and such information as may be appropriate be provided to the assessing officer of both the seller and buyer who may be at liberty to initiate appropriate action against the registered dealer who shall be duty bound in law to make such compliances failing which they shall be liable for whatever consequences law has prescribed.