

GIB/KR/Indus tower Ltd./17.01.2020/HC-151

High Court Category : Detention

State : Kerala

Order No.: GIB/KR/Indus tower Ltd./17.01.2020/HC-151

Name of Entry :

Indus tower ltd. Vs Assistant state tax officer

Date : 17-01-2018

Breif Issue :

Facts & Issue Of The Case :

Indus Towers Ltd. Vs. Assistant tax officer is a public limited company engaged in **the establishment and maintenance of towers for telecom service providers.**

They are registered under the Central Goods and Services Tax Act (the CGST Act) and the Kerala State Goods and Services Tax Act (the SGST Act).

Decision of Advance Ruling Authority :

Decision :

It was held that Department shall not initiate penal action against the assessee for not filing the return and payment of taxes as the assessee was unable to file the returns and pay the taxes for technical issues relating to migration.

A combined reading of Sections 129 and 130, especially the provision contained in sub section (6) of Section 129 indicates that the detention of the goods is contemplated under the statutes only when it is suspected that the goods are liable to confiscation.

In other words, detention of goods merely for infraction of the procedural Rules in transactions which do not amount to taxable supply, is without jurisdiction.

In the result, the writ petition is allowed, the impugned communications are quashed and the firstrespondent is directed to release the goods referred to in Ext.P3 notice forthwith.