

GIB/KN/SRI SAI BALAJI/21-03-2019/HC-60

High Court Category : E-way Bill

State : Karnataka

Order No.: GIB/KN/SRI SAI BALAJI/21-03-2019/HC-60

Name of Entry :
SRI SAI BALAJI

Date : 21-03-2019

Breif Issue :

Fact & Issues Involved:

The petitioner is engaged in the business of providing earth moving services in the name and style of 'Sri Sai Balaji Diggers'. It is contended that an e-way bill bearing No.1910 8302 4307 was generated by the petitioner for the work order issued by M/s Damodar & Co. from 20.11.2018 to 31.01.2019 and the excavator was transported by vehicle bearing Registration No. KA 01 AG 6219 of M/s God's Gift Transportation.

It transpires that, at 11.20 p.m. on 4.2.2019 the said vehicle was intercepted by the competent Authority and it was noticed that the e-way bill was not matching and accordingly the respondent No.4 issued FORM GST MOV-06, the order of detention under Section 129(1) of the Act and thereafter notice under Section 129(3) wherein, the petitioner was directed to pay the penalty amount of Rs.5,76,000/- (Rupees five lakhs seventy six thousand only). Subsequently, an order was passed quantifying the tax/penalty amount of Rs.5,18,400/- (Rupees five lakhs eighteen thousand four hundred only).

The petitioner has challenged the seizure order passed by the respondent No.4 dated 13.2.2019 under Section 129(3) of the Central Goods and Services Tax Act, 2017.

Decision of Advance Ruling Authority :

Decision:

The petitioner would submit that the transaction is a service transaction which is not amenable to tax under the provisions of the Act. Indeed, the correct e-way bill No.1511 0221 3149 dated 4.2.2019 generated at 9.51 p.m. was furnished by electronic media i.e., whats app by the petitioner to the mobile number of respondent No.4.

The respondent No.4 failed to consider the same and in utter violation of the Circular issued by the Central Board of Indirect Taxes and Customs GST policy wing bearing No.64/38/2018-GST dated

14.09.2018, proceeded to pass seizure order quantifying the tax/penalty of Rs.5,76,000/-. The seizure of the excavator would result in cancellation of the work orders for not carrying out the work within the prescribed time. Hence seeks for release of the goods and the conveyance.

without going into the merits or demerits of the case, this Court finds it appropriate to direct the Appellate Authority to dispose of the appeal in accordance with law after hearing the parties, in an expedite manner, in any event, preferably within a period of two weeks.