

**GIB/GUJ/VALIMOHAMMED/27-09-2019/HC-61**

**High Court Category :** E-way Bill

**State :** Gujarat

**Order No.:** GIB/GUJ/VALIMOHAMMED/27-09-2019/HC-61

**Name of Entry :**  
VALIMOHAMMED JOSAB & CO.

**Date :** 27-09-2029

**Breif Issue :**

**Fact & Issues Involved:**

The Assessee had provided a “winch machine” to “Nirma Limited, Kala Talav” (Job Worker) for some job work to be done. - However, on account of some defect in the machinery, the same was taken directly for the purpose of repairs on 20.8.2019 to “Yadav Trading Co”., namely, the dealer from whom the machinery had been purchased.

It was submitted that a gate pass had been issued by Nirma Ltd. with regard to removal of the Winch Machine from its premises.

However, when the machine was being transported back to the premises of Nirma Ltd. The vehicle in question being GJ-04-V-4335 was intercepted and the same has been seized under section 130 of the Gujarat Goods and Service Tax on the ground that the e-way bill was not tendered for the goods when it's in movement.

The Assessee submitted that vehicle came to be intercepted at 18:15 hours on 20.8.2019 and immediately thereafter, at 7.49 p.m., the e-way bill came to be generated.

**Decision of Advance Ruling Authority :**

**Decision:**

Based on the submissions made and the documents produced, it prima facie indicates that the old and used Winch machine was being transported from the premises of Yadav Trading Co. where it had been sent for repairs and was being transported back to Nirma Ltd. - there is substance in the submission made that, at best, the petitioner would be liable to pay fine of Rs.10,000/- as contemplated under clause (xiv) of section 122 of the GGST Act, 2017

More particularly, clause (xiv), where a taxable person transports any taxable goods without the cover of documents as may be specified, he shall be liable to pay a penalty of Rs.10,000/- or an amount equivalent to the tax evaded etc.; that since in the present case the petitioner is not liable to pay any tax, they would be liable to pay a fine of Rs.10,000/-.

Under the circumstances, issue notice, returnable on 17.10.2019. By way ad-interim relief, the respondents are directed to forthwith release Truck No.GJ-04-V-4335 along with the goods contained therein subject to the petitioner depositing a sum of Rs.10,000/- with the respondent authorities.