

GIB/GUJ/SYNERGY/23-12-2019/HC-69

High Court Category : E-way Bill

State : Gujarat

Order No.: GIB/GUJ/SYNERGY/23-12-2019/HC-69

Name of Entry :

Synergy Fertichem Pvt Ltd

Date : 23-12-2019

Breif Issue :

Issues Involved :

Non Availability of E – Waybill when demanded.

Fact of the Case:

- Petitioner is a Private Limited Company engaged in import and sale of ceramic pigment ink which is used as colouring substance in the tiles manufacturing industry.
- The transporter duly produced all documents relating to goods including bill of entry for home consumption evidencing payment of IGST on the transaction.
- The truck with the goods were detained by the learned officer on the ground of absence of e-way bill in respect of the goods.
- Whether proceedings for confiscation can be initiated without first following the procedure laid down under Section 129 of the CGST Act?
- Whether procedure and proceedings for confiscation are permissible even after the procedure of Section 129 of the Act was followed i.e., the amount was paid by the concerned person?
- Whether it is permissible in law to order confiscation once they are released under Section 129 of the Act on payment of the amount of tax and penalty i.e. when the authority was not in physical possession of both?

Decision of Advance Ruling Authority :

Decision:

- We can only urge the assessee to keep their transactions fair and transparent, then there should

be no room for any complaint. At the same time, we also expect the GST Authorities to ensure that no undue harassment is caused to the assessee. All the petitions are at the stage of notice for the purpose of confiscation. In all the cases, this Court has ordered interim release of the goods as well as the conveyance. This release is subject to the final outcome of the confiscation proceedings.???????

- “On the interpretation of Sections 129 and 130, the Court held that both the sections start with a non-obstante clause, yet, the harmonious reading of the two sections, keeping in mind the object and purpose behind the enactment thereof, would indicate that they are independent of each other.”