

GIB/GUJ/BHARAT VIJAY/03-05-2019/HC-71

High Court Category : E-way Bill

State : Gujarat

Order No.: GIB/GUJ/BHARAT VIJAY/03-05-2019/HC-71

Name of Entry :
BHARAT VIJAY TRANSPORT CO.

Date : 03-05-2019

Breif Issue :

Issues Involved:

GSTIN obtained on the basis of fake documents.

Fact of the Case:

When the conveyance in question was apprehended it was carrying goods under 31 bills and lorry receipts:

- Out of which in case of 22: - Bill and lorry receipts the goods were released immediately.
- in case of 9 defective bills and lorry receipts: - 7 of the concerned taxpayers had paid the tax and penalty, pursuant to which the goods were released.
- In case of 2 lorry receipts viz. No. 155609 and 155616 issued to M/s Standard Sales Corporation, the owner of the goods has not turned up for getting the goods released and upon inquiry it is found that the GSTN stated in the e-way bill etc. have been obtained on the basis of the Aadhar card, PAN and mobile number of one Mahendra bhai Venilal Solanki who had permitted one Vipul bhai to use such documents for obtaining GST registration upon payment of some amount to him.
- The goods were being transported under an invoice and e-way bill bearing a valid GSTN. It appears that such GSTN has been given without proper inquiry as contemplated under the Act and the rules, which is on account of default on the part of the concerned authorities.
- it is evident that the authority concerned has not applied its mind to the objections raised by the petitioner and has passed the impugned order confiscating the conveyance of the petitioner.

Decision of Advance Ruling Authority :

Decision:

- it appears that this Court, while admitting the matter, found that the impugned order dated

02.01.2019, passed under Section 130 of the State Goods and Services Tax Act, 2017, is without any reason and the same is passed without considering the objections raised by the petitioner.

- In view of such fact, the impugned order, passed under Section 130 of the Act, is hereby quashed and set aside.

However, we make it clear that the respondent authority can invoke Section 130 of the Act, if any material is found against the petitioner.