

GIB/GJ/INSHA TRADING/18-10-2019/HC-86

Advance Ruling Category : E-way Bill

State : Gujarat

Order No.: GIB/GJ/INSHA TRADING/18-10-2019/HC-86

Name of Entry :
Insha Trading Company

Date : 18-10-2019

Breif Issue :

Facts & Issue of the case :

The petitioner M/s Insha Trading Company is engaged in the business of metal, located in New Delhi, placed an order for brass electrical parts. The Petitioner dispatched the order from **Jamnagar to Delhi**. The driver of the vehicle was carrying an invoice, e-way bill along with the lorry receipt while transporting the goods - brass electrical parts from Jamnagar to Delhi.

The truck was intercepted by the State Tax Officer on January. The driver had produced the documents relating to the goods which were transported; however, the Respondent **detained** the truck on the ground of genuineness of the goods in transit and other documents, holding the view that it attracts further scrutiny.

Accordingly, an order in **Form GST MOV-01** recording the statement of the driver as well as an order for physical inspection of the conveyance, goods and the documents in Form GST MOV-02 are issued. Thereafter, by an order under Section 129(1) of the **CGST Act** the truck as well as the goods contained therein was ordered to be detained on the following grounds: "On a perusal of the details in Invoice No.15615, it prima facie being disproportionate, the vehicle has been detained for verification of the same".

Accordingly, by an order in Form GST MOV-09 the Petitioner was asked to pay the taxes and penalty as computed therein. Thereafter, a notice was issued in Form GST MOV-10 under Section 130 of the CGST Act for confiscation of the conveyance and goods for verification; and that upon primary examination of the dealer online, it is found that in December 2018, he has generated 42 e-way bills wherein IGST of INR 3,64,30,800/- is shown, and that it appears that either the dealer has not paid such amount or the purchases are not genuine. Thereafter, by the order dated April 8, 2019, the goods and conveyance are ordered to be confiscated in the exercise of powers under section 130 of the CGST Act. On the above forgoing, the Petitioner challenged the Impugned Order dated April 8, 2019, passed by the authority and taxes and penalty levied in Form GST MOV- 09.

Decision of Advance Ruling Authority :

Decision

The Hon'ble HC Gujarat held that nothing was pointed out by the Authority to show that there was any discrepancy in the e-way bill or the tax invoice and based on the instructions issued by the Board in the Circular dated April 13, 2018, since, no discrepancies were found, the conveyance should have been allowed to move further.

Further no discrepancy having been found in Invoice No.15615 (**the Invoice in question**) after verification, even though the conveyance has been detained for that purpose. Thus, it appeared that there was no valid ground for the detention of the vehicle in question. Therefore, the question of calling upon the Petitioner to pay the taxes, penalty and fine, as computed by the authority in the order of demand of tax and penalty in Form GST MOV-09 does not arise hence, **quashed**. The Impugned order of confiscation passed by the Authority under section 130 of the CGST Act cannot be sustained as the reason recorded for passing the Impugned order has nothing to do with the reason for which the goods and conveyance were initially detained and the driver was carrying all the documents.