

IMPORTANT GST UPDATES



Issued in case of Western Carrier India Ltd. by Allahabad High Court
Writ Tax No. - 1020 of 2023 | Date: 15-09-2023

Ruling

The Consignor or Consignee is deemed to be Owner if an Invoice or other specified Documents are accompanying the goods.

Observations & Findings

The petitioner, Western Carrier India Ltd was transporting the goods for M/s Tata Steel Ltd from Odisha to Pilkhua and was carrying all the necessary documents including invoice and E-Way Bills. Unfortunately, due to engine breakdown, in the state of Jharkhand, there was a delay in transporting the goods due to which the E-Way Bills expired. While one E-Way Bill was extended, the GST portal didn't permit extensions for the rest of the GST E-Way Bills. As a result, the goods were detained in Kanpur on grounds of expiration of the documents.

The petitioner argued that penalty should not be imposed under section 129(1)(b) of the Act because they had all the necessary documents including invoices and extended E-way Bills. Also the owner had reached out first before the authorities which showcased that there was no intent of evasion. Furthermore, they argued based on Circular No. 76/50/2018-GST dated 31.12.2018 issued by Central Board of Indirect Taxes and Customs that penalty could only be imposed under Section 129(1)(a) of the Act as the invoice and E-way Bills were accompanying the goods, the consignor or the consignee should have been considered as deemed owner of the goods.

Though the objection was raised by the state on the ground of availability of remedy of appeal under section 107 of the Act, it was not disputed that the goods were accompanied by requisite documents.

Noting the arguments of the parties and the applicability of the circular, Allahabad High Court held that the government did not dispute that the petitioner had the necessary documents and hence should have considered the petitioner's prayers for release of goods. The petition was disposed directing the authorities to release the goods upon compliance of the condition stipulated U/s 129(1)(a) of the law.