

IMPORTANT GST UPDATES



Issued in case of M/S. Hindustan Herbal Cosmetics by Allahabad High Court
WRIT TAX No. - 1400 of 2019 | Date: 02-01-2024

Ruling

Minor Typographical Error in E-way Bill With No Intent to Evade Tax Should Not Be Penalized

Observations & Findings

M/S. Hindustan Herbal Cosmetics, a cosmetics retailer, faced an issue when supplying products to M/s Shree Sai Infotech in Jharkhand. Despite a valid tax invoice, and e-way bill dated May 23, 2018, the Goods and Service Tax authorities intercepted the consignment in Vehicle No.DL1 AA 5332, citing a discrepancy in the vehicle number mentioned in the e-way bill (DL1 AA 3552 instead of DL1 AA 5332). It's crucial to note that, aside from this error, the petitioner committed no other violations. Penalties were imposed solely for the incorrect vehicle number, with no allegations of tax evasion, given the alignment of the e-way bill, and tax invoice, and the consignee being a registered dealer.

In defense, the petitioner's counsel argued that the incorrect typing of '5332' as '3552' was a clear typographical error. This argument aligns with a similar mistake noted in the impugned order passed by the concerned authority. The counsel cited a coordinate Bench judgment in M/s. Varun Beverages Limited v. State of U.P. and a Supreme Court judgment in Assistant Commissioner (ST) v. M/s. Satyam Shivam Papers Pvt. Ltd. to support the contention that such typographical errors should not warrant penalties, especially when no intention to evade tax is evident.

The Additional Chief Standing Counsel contends that the Department, through a circular, permits non-imposition of penalties for errors involving two-digit mistakes in vehicle numbers. He further argues that the judgment in M/s. Varun Beverages Limited is inapplicable here, as it pertained to a stock transfer case with no tax liability. Attempting to distinguish the Supreme Court judgment, he emphasizes that it involved an expired e-way bill just before the vehicle's detention.

After reviewing all necessary information, the High Court recognizes a typographical error in the vehicle number, surpassing the allowed two-digit discrepancy mentioned in the government circular. Despite this, fairness in applying the law is crucial, especially as it pertains to a stock transfer with no intention of tax evasion. The slight error in the e-way bill's registration of the vehicle in the state should not trigger penalties under Section 129. The Department hasn't presented any evidence indicating the dealer's intent to evade tax, except for the wrongly entered vehicle registration number in the e-way bill. Considering that minor typographical errors may not imply an intent to evade tax, imposing penalties under Section 129 is considered unjust and illegal. Consequently, the challenged orders are annulled, with necessary relief to be provided to the petitioner within the next four weeks.