IMPORTANT GST CASE LAW

JUDGEMENT

200% Penalty Set Aside for Zero-Rated Export with Expired E-Way Bill

Issued By:	Gujarat High Court
In Case Of:	Marcowagon Retail Pvt Ltd
Order No:	SLP 2236 of 2025
Order Date:	24th April 2025

FACTS & OBSERVATIONS

- The petitioner, engaged in exports to the UAE, was transporting goods from Gurugram to the Mundra port under a Letter of Undertaking (LUT) without IGST payment.
- Though a valid e-invoice and e-way bill were generated, the e-way bill expired before the goods reached the check post as the vehicle suffered breakdown.
- State GST authorities intercepted the vehicle, issued Form MOV-1 to MOV-7, and imposed a 200% penalty under Section 129(1)(a) via Form MOV-9.
- The petitioner argued no tax was payable on zero-rated supplies, and the penalty should align with that for exempt goods under the law.

JUDGEMENT

- The Court held that while zero-rated supplies are taxable, no tax is “payable” when made under LUT, negating the basis for penalty under Section 129(1)(a).
- It clarified the difference between “leviable” and “payable,” stating that penalty applies only when tax is actually payable.
- The Court deemed the expired e-way bill a procedural lapse, not tax evasion, citing CBIC Circular 64/38/2018-GST for leniency in such cases.
- The penalty was limited to ₹25,000, the bank guarantee was ordered to be released, and the MOV-9 order was directed to be modified.

N J JAIN & ASSOCIATES
CHARTERED ACCOUNTANTS
WWW.NJJAIN.COM

info@niteshjain.co.in

079-4002-2628