

न्यायालय अपर आयुक्त ग्रेड-2(अपील) प्रथम, राज्य कर, गोरखपुर।

उपस्थित- श्री धर्मेन्द्र सिंह, अपर आयुक्त ग्रेड-2(अपील) प्रथम, राज्य कर, गोरखपुर।

अपील संख्या-AD090524111033L/18.05.2024/092400014972TMP/ZD0905240365665

/05.05.2024/2024-25/GST Act, 2017 की धारा-129(3)

M/S Duha Overseas Private Limited 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati  
Kamrup Metropolitan, Assam, 781007

**बनाम**

सहायक आयुक्त, सचल दल इकाई, राज्य कर, कुशीनगर।

कर निर्धारण अधिकारी का नाम व पद - श्री गुलाब चन्द्र, सहायक आयुक्त, सचल दल इकाई, राज्य कर,  
कुशीनगर।

अपीलकर्ता की तरफ से उपस्थित- श्री शशिकान्त अग्निहोत्री (फर्म के अधिवक्ता)  
विभाग की तरफ से उपस्थित- कोई नहीं

**निर्णय**

प्रस्तुत अपील IGST/CGST/SGST2017(जिसे आगे अधिनियम कहा जायेगा) के अन्तर्गत दाखिल की गयी है। अपीलकर्ता द्वारा उक्त अपील वर्ष 2024-2025 में धारा-129(3) के अन्तर्गत सहायक आयुक्त, सचल दल इकाई, राज्य कर, कुशीनगर के द्वारा पारित आदेश दिनांक 05.05.2024 के विरुद्ध दाखिल की गयी है जिसमें विवादित अर्थदण्ड रु0 237460.00 है।

वाद के तथ्य संक्षेप में इस प्रकार है कि सचल दल अधिकारी के द्वारा वाहन संख्या UK06GB5191 को जांच हेतु दिनांक 05.05.2024 को HETIMPUR NH 28 स्थान पर रोका गया। वाहन चालक द्वारा जांच के समय फर्म M/S DUHA OVERSEAS PRIVATE LIMITED 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati Kamrup Metropolitan, Assam द्वारा क्रेता फर्म M/S GANESHA ECOSPHERE LIMITED 1ST FLOOR, GATE NO. 87/1/2,96 & 97 GRAM KOTA, NIKAL ALI NAGAR BILASPUR, DIST. RAMPUR U.P. को जारी टैक्स इनवॉइस संख्या DOPL/24-25/8 दिनांक 02/05/2024 एवं ई-वे बिल-851409792159 दिनांक 03/05/2024 प्रस्तुत किया गया। ASH LOGISTICS & TRADERS PVT. LTD. द्वारा जारी बिल्टी संख्या AS2402187 दिनांक 01.05.2024 एवं RAHUL WEIGHBRIDGE, BORAGAON, NH-37 GUWAHATI द्वारा जारी कांटा पर्ची संख्या-01899 दिनांक 02.05.2024 प्रस्तुत किया। प्रस्तुत प्रपत्रों की जांच पर सचल दल अधिकारी के द्वारा पाया गया कि विक्रेता M/S DUHA OVERSEAS PRIVATE LIMITED 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati, Kamrup Metropolitan, 1. Assam द्वारा जारी टैक्स इनवॉइस संख्या- DOPL/24-25/8 में दिनांक 02/05/2024 अंकित किया गया है, जबकि उक्त के सम्बन्ध में जारी ई-वे बिल संख्या-851409792159 दिनांक 03/05/2024 में डॉक्यूमेंट डिटेल्स में दिनांक 03-05-2024 घोषित किया गया है। विक्रेता फर्म M/S DUHA OVERSEAS PRIVATE LIMITED 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati, Kamrup Metropolitan, Assam द्वारा जारी टैक्स इनवॉइस संख्या- DOPL/24-25/8 दिनांक 02/05/2024 पर अधिकृत प्रतिनिधि का हस्ताक्षर नहीं किया गया है, जिसके आधार पर सचल दल अधिकारी द्वारा धारा-129(3) के अन्तर्गत आदेश दिनांक-05.05.2024 को पारित करते हुए रु0 237460.00 अर्थदण्ड आरोपित किया गया, जिससे क्षुब्ध होकर अपीलकर्ता द्वारा अपील दायर की गयी है।

अपील की सुनवाई हेतु अपीलकर्ता को नोटिस जारी की गयी। अपील की सुनवाई हेतु अपीलकर्ता के अधिवक्ता श्री शशिकान्त अग्निहोत्री उपस्थित हुए एवं अपीलीय आधार में वर्णित तथ्यों को दोहराया एवं अन्य तथ्यों से अवगत कराया गया।

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M/S Duha Overseas Private Limited 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati  
Kamrup Metropolis, Assam, 781007

**Statement of facts-**

1. That the appellant is a registered under Goods and Service Tax in state of Assam and the registration is still valid.
2. That the appellant is a registered under Goods and service tax in state of Assam with the GSTIN No-18AAKCD0407F1ZZ.
3. That the appellant is temporarily registered in the state of Uttar Pradesh with GSTIN - 092400014972TMP.
4. That the appellant is a private limited company in the state of Assam.
5. That the appellant is a----- (BUSINESS).
6. The appellant has done shipment of PET Scrap from Guwahati, Assam to Rampur, Uttar Pradesh.
7. That the goods were being transported through vehicle no. UK06CB5191.
8. That the appellant has ordered shipment of goods from Guwahati, Assam to Rampur, Uttar Pradesh. The goods was being transported through truck No. UK06CB5191 with Biltye no - AS2402187 dated 01.05.2024, Invoice no- DOPL/24-25/8 dated 02.05.2024 and E-Way Bill no-851409792159 dated 03.05.2024. Since the value of the goods was more than Rs.50,000, there was statutory requirement for E-way Bill All the papers were with the vehicle and found at the time of detection of goods.
9. That the goods were intercepted on 05.05.2024 at Hetimpur NH 28 by the L.d. Assistant Commissioner (Mobile Squad), Kushinagar. The appellant driver presented all papers bonafidely before the Assistant Commissioner at Kushinagar. The goods were detained for the two reasons that:
  - Document date which was mentioned in the aforesaid E-way was 03/05/2024 and invoice which was accompanied with the aforesaid transaction was dated as 02/05/2024.
  - There was no signature found in the authorized signatory column of the invoice.
10. That there were no other discrepancies found in the any of the other documents which were accompanied with the transportation of goods.
11. That the Ld. Assistant Commissioner only raised allegation on the E-way Bill and invoice.
12. That the first allegation raised by Ld Assistant Commissioner in the Form Mov-07 i.e show cause notice is that document date which was mentioned in the aforesaid E-way Bill was 03/05/2024 and invoice which was accompanied with the aforesaid transaction was dated as 02/05/2024.
13. That it is pertinent to mention here that the dispute raised in this case is due to inadvertent mistake of the appellant's computer operator which is a human error and there was no intention to deceive the State of the revenue, which otherwise the appellant was liable to pay, due to the transaction, which was referred to in the tax invoice.

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M/S Duha Overseas Private Limited 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati  
Kamrup Metropolitan, Assam, 781007

14. That the appellant rely upon the Circular No.64/38/2018-GST dated 14/09/2018 issued by Central Board of Indirect Taxes and Custom (herein referred as CBIC). A copy of the Circular No.64/38/2018-GST dated 14/09/2018 is being filed herewith and marked as Annexure No. to this appeal.

15. That the appellant submits that in the Circular No.64/38/2018-GST dated 14/09/2018 wherein it had provided that if during the course of investigation of a vehicle, carrying the goods, if it is apprehended by the investigating team, certain minor discrepancies, which chances in the entries, which were made in the E-way bill or the tax invoices are to be overlooked, prior to invocation of the provisions contained under Section 129(1).

16. That the appellant contends that the document date mentioned in the E-Way bill accompanied with the transaction was due to inadvertent mistake of computer operator was inputted wrongly.

17. That the appellant submits that while inputting the details in the E-way Bill if some particulars are wrongly inputted is taken contrary to invoke the provisions contained under Section 129 and to oust the protection provided by Circular of 14th September, 2018.

18. That the appellant submits that E-way Bill contained all other particulars, which were correct and corresponding to the details provided in the tax invoice, in fact, there was no apparent intention, as such to deceive the State with the revenue and hence, the error which has crept in giving the invoice's date as document date in the E-way Bill would fall to be within an exception Clause 5 of the Circular 64/38/2018.

19. That the appellant rely upon the judgment of this Hon'ble Court in the Writ Petition (M/S) No. 1969 of 2021 dated 27th April, 2022 M/s Sonal Automation Industries v. State of Uttrakhand and Other; it was held - "The Sub-clauses referred therein to Clause 5, has to be rationally construed and once the exception of mistake is considered to be excused under Clause 5 of the Circular of 14th September, 2018 and looking to the nature of the error, which has crept in, in the instant case, I am of the view, that since it was not backed with a clever intent to deceive the State of the revenue, and particularly, when the other figures or entries provided by the petitioner by submission of the e-way bill to the respondents/revenue, it contained all the other particulars, which were correct and corresponding to the details provided in the tax invoice, in fact, there was no apparent intention, as such to deceive the State with the revenue and hence, the error which has crept in giving the invoice number would fall to be within an exception Clause 5 of the Circular of 14th September, 2018." Copy of the aforesaid judgement is being filed herewith and marked as Annexure No. to this appeal.

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M/S Duha Overseas Private Limited 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati  
Kamrup Metropolitan, Assam, 781007

20. That the appellant also rely upon the judgment of the Kerala High Court in WP(C) No. 7716 of 2021 dated 6th April, 2022 **Greenlight Power Solutions vs State Tax Officer and Others** it was held that "However, the Circular refers to only six instances of minor discrepancies. Strictly speaking, the present situation is not covered by the six instances mentioned in the Circular. However, the analysis of the six instances reveals those discrepancies which have no bearing on tax liability and are caused on account of bonafide mistakes like typographical errors, or otherwise are regarded as minor discrepancies. In fact, the situation in the present case can be even brought under the broader umbrage of clause (d) of para 5 of the Circular." Copy of the aforesaid judgement is being filed herewith and marked as Annexure No. to this appeal.

21. That the appellant submits that Circular issued by Board are binding on the Revenue authorities under respective statues.

22. That the appellant rely on the judgment of the Hon'ble apex court in case of **Commissioner of Central Excise, Bolpur v Ratan Melting and Wire Industries** where the court observed that the circular issued by board are binding on the revenue authorities till the provisions of the circular are not proved contrary to law laid down by High Court or Supreme Court."

23. That the Ld. Assistant Commissioner intentionally to harass the appellant imposed the penalty under Section 129(3) of the CGST/IGST/SGST Act and Rules, 2017.

24. That penalty proceedings are quasi criminal in nature. It is settled view that the in such type of cases it is for the department to establish that the transportation of goods was of intention to avoid the tax. No such facts are established in the impugned case. The imposition of penalty is illegal.

#### GROUND OF APPEAL

1. Because the appellant has ordered shipment of goods from Guhawati, Assam to Rampur, Uttar Pradesh. The goods was being transported through truck No. UK06CB5191 with Biltye no -AS2402187 dated 01.05.2024, Invoice no-DOPL/24-25/8 dated 02.05.2024 and E-Way Bill no- 851409792159 dated 03.05.2024. Since the value of the goods was more than Rs. 50,000, there was statutory requirement for E-way Bill All the papers were with the vehicle and found at the time of detection of goods.

3. Because the goods were intercepted on 05.05.2024 at Hetimpur NH 28 by the Ld. Assistant Commissioner (Mobile Squad), Kushinagar. The appellant driver presented all papers bonafidely before the Assistant Commissioner at Kushinagar. The goods were detained for the two reasons that:

- Document date which was mentioned in the aforesaid E-way was 03/05/2024 and invoice which was accompanied with the aforesaid transaction was dated as 02/05/2024.
- There was no signature found in the authorized signatory column of the invoice.



M/S Duha Overseas Private Limited 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati  
Kamrup Metropolitan, Assam, 781007

4. Because there were no other discrepancies found in the any of the other documents which were accompanied with the transportation of goods.

5. Because the Ld. Assistant Commissioner only raised allegation on the E-way Bill and invoice.

6. Because the first allegation raised by Ld Assistant Commissioner in the Form Mov-07 i.e show cause notice is that the document date which was mentioned in the aforesaid E-way Bill was 03/05/2024 and invoice which was accompanied with the aforesaid transaction was dated as 02/05/2024.

7. Because it is pertinent to mention here that the dispute raised in this case is due to inadvertent mistake of the appellant's computer operator which is a human error and there was no intention to deceive the State of the revenue, which otherwise the appellant was liable to pay, due to the transaction, which was referred to in the tax invoice.

8. Because the appellant rely upon the Circular No.64/38/2018-GST dated 14/09/2018 issued by Central Board of Indirect Taxes and Custom (herein referred as CBIC). A copy of the Circular No.64/38/2018-GST dated 14/09/2018 is being filed herewith and marked as Annexure No. to this appeal.

9. Because the appellant submits that in the Circular No.64/38/2018-GST dated 14/09/2018 wherein it had provided that if during the course of investigation of a vehicle, carrying the goods, if it is apprehended by the investigating team, certain minor discrepancies, which chances in the entries, which were made in the E-way bill or the tax invoices are to be overlooked, prior to invocation of the provisions contained under Section 129(1).

10. Because the appellant contends that the document date mentioned in the E-Way bill accompanied with the transaction, was due to inadvertent mistake of computer operator was inputted wrongly.

11. Because the appellant submits that while inputting the details in the E-way Bill if some particulars are wrongly inputted is taken contrary to invoke the provisions contained under Section 129 and to oust the protection provided by Circular of 14th September, 2018.

12. Because the appellant submits that E-way Bill contained all other particulars, which were correct and corresponding to the details provided in the tax invoice, in fact, there was no apparent intention, as such to deceive the State with the revenue and hence, the error which has crept in giving the invoice's date as document date in the E-way Bill would fall to be within an exception Clause 5 of the Circular 64/38/2018.

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M/S Duha Overseas Private Limited 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati  
Kamrup Metropolitan, Assam, 781007

v. State of Ultrakhand and Other; it was held "The Sub-clauses referred therein to Clause 5, has to be rationally construed and once the exception of mistake is considered to be excused under Clause 5 of the Circular of 14th September, 2018 and looking to the nature of the error, which has crept in, in the instant case, I am of the view, that since it was not backed with a clever intent to deceive the State of the revenue, and particularly, when the other figures or entries provided by the petitioner by Submission of the e-way bill to the respondents/revenue, it contained all the other particulars, which were correct and corresponding to the details provided in the tax invoice, in fact, there was no apparent intention, as such to deceive the State with the revenue and hence, the error which has crept in giving the invoice number would fall to be within an exception Clause 5 of the Circular of 14th September, 2018." Copy of the aforesaid judgement is being filed herewith and marked as Annexure No. to this appeal.

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17. Because the Ld. Assistant Commissioner intentionally to harass the appellant. imposed the penalty under Section 129(3) of the CGST/IGST/SGST Act and Rules ,2017.

18. Because penalty proceedings are quasi criminal in nature. It is settled view that the in such type of cases it is for the department to establish that the transportation of goods was of intention to avoid the tax. No such facts are established in the impugned case. The imposition of penalty is illegal. in such type of cases it is for the department to establish that the transportation of goods was of intention to avoid the tax. No such facts are established in the impugned case. The imposition of penalty is illegal.

(2)

M/S Duha Overseas Private Limited 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati  
Kamrup Metropolitan, Assam, 781007

20. Because the order passed is illegal against law and facts liable to be quashed.  
**PRAYER-** Its therefore most respectfully prayed that the impugned penalty order passed u/s 129 of the act may kindly be quashed. OR Any other relief which your good self deemed fit and proper looking to the facts and circumstances of the case.

सचल दल अधिकारी के द्वारा आदेश में उल्लिखित तथ्य निम्न प्रकार से हैं-

“वाहन संख्या UK06CB5191 को जांच हेतु दिनांक 05.05.2024 को HETIMPUR NH 28 स्थान पर रोका गया। परिवहन किए जा रहे माल का भौतिक सत्यापन/जांच CGST/SGST/IGST Act, 2017 सपिठत CGST Act, 2017 की धारा 68 की उपधारा (3) के अन्तर्गत दिनांक 05/05/2024 को की गई। वाहन चालक द्वारा जांच के समय फर्म M/S DUHA OVERSEAS PRIVATE LIMITED 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati Kamrup Metropolitan, Assam, 781007 GSTIN-18AAKCD0407F1ZZ. द्वारा क्रेता फर्म M/S GANESHA ECOSPHERE LIMITED 1ST FLOOR, GATE NO. 87/1/2,96 & 97 GRAM KOTA, NIKAL ALI NAGAR BILASPUR, DIST. RAMPUR U.P. 244923 GSTIN - 09AAACG6334N1ZA को जारी टैक्स इनवॉइस संख्या DOPL/24-25/8 दिनांक 02/05/2024 एवं ई-वे बिल-851409792159 दिनांक 03/05/2024 प्रस्तुत किया गया। ASH LOGISTICS & TRADERS PVT. LTD. द्वारा जारी बिल्टी संख्या AS2402187 दिनांक 01.05.2024 प्रस्तुत किया गया। RAHUL WEIGHBRIDGE, BORAGAON, NH-37 GUWAHATI द्वारा जारी कांटा पर्ची संख्या-01899 दिनांक 02.05.2024 प्रस्तुत किया। प्रस्तुत प्रपत्रों की जांच पर पाया गया कि विक्रेता M/S DUHA OVERSEAS PRIVATE LIMITED 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati, Kamrup Metropolitan, Assam, 781007 GSTIN-18AAKCD0407F1ZZ द्वारा जारी टैक्स इनवॉइस संख्या- DOPL/24-25/8 में दिनांक 02/05/2024 अंकित किया गया है, जबकि उक्त के सम्बन्ध में जारी ई-वे बिल संख्या- 851409792159 दिनांक 03/05/2024 में डॉक्यूमेंट डिटेल्स में दिनांक 03-05-2024 घोषित किया गया है। अर्थात् परिवहन किए जा रहे माल के सम्बन्ध में जारी ई-वे बिल के डॉक्यूमेंट डिटेल्स कॉलम में दिनांक एवं टैक्स इनवाइस दिनांक में भिन्नता है। विक्रेता फर्म M/S DUHA OVERSEAS PRIVATE LIMITED 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati, Kamrup Metropolitan, Assam, 781007 GSTIN-18AAKCD0407F1ZZ द्वारा जारी टैक्स इनवॉइस संख्या- DOPL/24-25/8 दिनांक 02/05/2024 पर अधिकृत प्रतिनिधि का हस्ताक्षर नहीं किया गया है जो IGST Act, 2017 की धारा 31, रूल 46(Q) का उल्लंघन है।”

विभाग की ओर से कोई उपस्थित नहीं हुआ एवं न ही कोई आख्या प्राप्त हुयी।

मेरे द्वारा अपील पत्रावली पर उपलब्ध अपील आधार, सचल दल अधिकारी द्वारा पारित आदेश एवं अन्य अभिलेखों का अवलोकन किया गया तथा अपीलकर्ता के द्वारा दिये गये तथ्यों एवं तर्कों पर विचार किया गया। सचल दल अधिकारी के द्वारा वाहन संख्या UK06CB5191 को जांच हेतु दिनांक 05.05.2024 को HETIMPUR NH 28 स्थान पर रोका गया। वाहन चालक द्वारा जांच के समय फर्म M/S DUHA OVERSEAS PRIVATE LIMITED 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati Kamrup Metropolitan, Assam द्वारा क्रेता फर्म M/S GANESHA ECOSPHERE LIMITED 1ST FLOOR, GATE

(6)



M/S Duha Overseas Private Limited 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati  
Kamrup Metropolitan, Assam, 781007

NO. 87/1/2.96 & 97 GRAM KOTA, NIKAL ALI NAGAR BILASPUR, DIST. RAMPUR U.P. को जारी टैक्स इनवॉइस संख्या DOPL/24-25/8 दिनांक 02/05/2024 एवं ई-वे बिल संख्या-851409792159 दिनांक 03/05/2024 प्रस्तुत किया गया। ASH LOGISTICS & TRADERS PVT. LTD. द्वारा जारी बिल्टी संख्या AS2402187 दिनांक 01.05.2024 प्रस्तुत किया गया। RAHUL WEIGHBRIDGE, BORAGAON, NH-37 GUWAHATI द्वारा जारी कांटा पर्ची संख्या-01899 दिनांक 02.05.2024 प्रस्तुत किया। प्रस्तुत प्रपत्रों की जांच पर सचल दल अधिकारी के द्वारा पाया गया कि विक्रेता M/S DUHA OVERSEAS PRIVATE LIMITED 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati, Kamrup Metropolitan, 1. Assam द्वारा जारी टैक्स इनवॉइस संख्या- DOPL/24-25/8 में दिनांक 02/05/2024 अंकित किया गया है, जबकि उक्त के सम्बन्ध में जारी ई-वे बिल संख्या-851409792159 दिनांक 03/05/2024 में डॉक्यूमेंट डिटेल्स में दिनांक 03-05-2024 घोषित किया गया है। विक्रेता फर्म M/S DUHA OVERSEAS PRIVATE LIMITED 40A, Bhikham Niwas, PP Road, Ulubari, Guwahati, Kamrup Metropolitan, Assam द्वारा जारी टैक्स इनवॉइस संख्या- DOPL/24-25/8 दिनांक 02/05/2024 पर अधिकृत प्रतिनिधि का हस्ताक्षर नहीं किया गया है, जिसके आधार पर सचल दल अधिकारी द्वारा धारा-129(3) के अन्तर्गत आदेश दिनांक-05.05.2024 को पारित करते हुए ₹0 237460.00 अर्थदण्ड आरोपित किया गया है। चूंकि ई-वे बिल संख्या-851409792159 दिनांक 03/05/2024 पर इन्वाइस संख्या, माल का मूल्य इत्यादि वही अंकित है जो कि टैक्स इन्वाइस संख्या DOPL/24-25/8 दिनांक 02/05/2024 पर अंकित है। अपीलकर्ता द्वारा बताया गया कि मानवीय त्रुटिवश ई-वे बिल पर इन्वाइस दिनांक 02/05/2024 के स्थान पर 03-05-2024 अंकित हो गया था। अपीलकर्ता के द्वारा अपने अपील आधार में उल्लिखित तथ्यों के समर्थन में निम्नलिखित न्यायिक निर्णयों का उल्लेख किया गया है-

1. Hon'ble Court in the Writ Petition (M/S) No. 1969 of 2021 dated 27th April, 2022 M/s Sonal Automation Industries v. State of Ultrakhand and Other.
2. Kerala High Court in WP(C) No. 7716 of 2021 dated 6th April, 2022 Greenlight Power Solutions vs State Tax Officer and Others.
3. Hon'ble apex court in case of Commissioner of Central Excise, Bolpur v Ratan Melting and Wire Industries.

माननीय उच्च न्यायालय के द्वारा WP(C) NO. 7716 of 2021, M/s Greenlights Power Solutions Petitioner vs State Tax Officer and others, Dated-06.04.2022 में छोटी-मोटी त्रुटियों से सम्बन्धित निर्णय दिया गया है। परिपत्र संख्या-64/38/2018-GST, Dated-14.09.2018 में दिये निर्देशों की भी यही मंशा है कि छोटी-मोटी त्रुटियों हेतु धारा 129(3) में अर्थदण्ड आरोपित किया जाना उचित नहीं है। उक्त परिपत्र में संचरण के दौरान माल व वाहन को रोके जाने के सम्बन्ध में कुछ व्यवस्थाएं की गयी हैं, जिसके अन्तर्गत प्रस्तर-4 में यह स्पष्ट किया गया है कि माल का डिटेन्शन किया जा सकता है जब माल के साथ ई-वे बिल न हो। प्रश्नगत मामले में जांच के समय ई-वे बिल पाया गया है। केवल त्रुटिवश ई-वे बिल में इन्वाइस दिनांक गलत अंकित हो गया है। उपरोक्त प्रस्तर के अन्तिम पंक्तियों में स्पष्ट उल्लेख है कि, "It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated." अर्थात् धारा-129 के अन्तर्गत नोटिस जारी की जायेगी जब ई-वे बिल न

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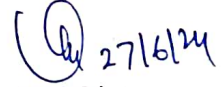


हो। अपीलकर्ता के मामले में ई-वे बिल उपलब्ध पाया गया है। सर्वश्री गंगा इण्डस्ट्रीज बनाम यूनियन ऑफ इण्डिया रिट टैक्स नं० 1603 दिनांक 14.12.2018 में माननीय इलाहाबाद हाईकोर्ट के द्वारा स्पष्ट रूप से कहा गया है कि ई-वे बिल में टैक्स इनवाइस से भिन्न दिनांक होने पर माल का अभिग्रहण नहीं किया जा सकता। ई-वे बिल पर मानवीय त्रुटिवश इनवाइस दिनांक का गलत अंकित हो जाना व इनवाइस संख्या पर अधिकृत पतिनिधि का हस्ताक्षर नहीं होना, छोटी-मोटी त्रुटियों के अन्तर्गत आता है। प्रश्नगत वाद में माल के परिवहन से सम्बन्धित समस्त पत्र पाये गये हैं। अपीलकर्ता के द्वारा उपस्थित होकर अभिलेखों से तथ्यात्मक जांच करवाई गयी है। जांचोपरान्त उक्त तथ्य की पुष्टि होती है कि अत्यन्त छोटी त्रुटि के कारण अर्थदण्ड आरोपित किया गया है। प्रश्नगत प्रकरण में करापवंचन की कोई मंशा निहित नहीं पायी गयी। सचल दल अधिकारी द्वारा धारा-129(3) के अन्तर्गत आदेश पारित करते हुए अर्थदण्ड आरोपित किया गया, जो उचित नहीं पाया गया।

वाद के तथ्यों, अपीलकर्ता के द्वारा अपील आधार में दिये गये न्यायिक निर्णयों एवं परिपत्र संख्या-64/38/2018-GST के आलोक में माल अभिग्रहीत करके अर्थदण्ड की कार्यवाही उचित नहीं है। अपीलकर्ता की अपील स्वीकार की जाती है। सचल दल अधिकारी के द्वारा अधिनियम की धारा-129(3) के अन्तर्गत पारित आदेश दिनांक-05.05.2024 में कुल विवादित अर्थदण्ड रु० 237460.00 समाप्त किया जाता है।

### आदेश

अपील स्वीकार की जाती है तथा सचल दल अधिकारी द्वारा अधिनियम की धारा-129(3) के अन्तर्गत पारित आदेश दिनांक-05.05.2024 में कुल विवादित अर्थदण्ड रु० 237460.00 समाप्त किया जाता है। आदेश की मूल प्रति पत्रावली पर रखी जाये।



(धर्मन्द्र सिंह)

अपर आयुक्त ग्रेड-2(अपील) प्रथम  
राज्य कर, गोरखपुर