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Mere Expiry of E-Way Bill Without Intent to Evade Tax Cannot Justify 200% Penalty

The Hon'ble Calcutta High Court in the case of ***Industrial Pumps & Motors Agencies & Anr. vs. The State of West Bengal & Ors. [WPA 28356 of 2024, order dated April 16, 2026]*** held that mere expiry of e-way bill, in absence of any intention to evade tax and where transportation documents were otherwise genuine, cannot justify imposition of harsh penalty under Section 129 of the WBGST Act, 2017.

Facts:

Industrial Pumps & Motors Agencies & Anr. **("the Petitioner")** were engaged in the retail business of transmission shafts, pumps for liquids, electric motors and related goods. The Petitioner supplied pumps for liquids, liquid elevators and parts of centrifugal pumps to Steel Plant of Steel Authority of India Limited, Durgapur **("SAIL")** and generated a valid e-way bill on May 7, 2022 at 01:09 PM for transportation of the goods. The e-way bill was valid for 180 kms till 11:59 PM on May 8, 2022.

The State of West Bengal & Ors. **("the Respondent")**, through the Deputy Commissioner, State Tax, Bureau of Investigation, intercepted the vehicle on May 9, 2022 at 8:50 AM at a petrol pump in Durgapur, approximately 10 kms away from the destination, and found that the e-way bill had expired. Proceedings under Section 129(1) of the West Bengal Goods and Services Tax Act, 2017 were initiated and penalty equivalent to 200% of the tax payable amounting to Rs. 1,58,034/- was imposed under Section 129(3), which was subsequently affirmed by the Appellate Authority.

The Petitioner contended that there was no intention to evade payment of tax and that no discrepancy or irregularity was alleged except expiry of the e-way bill prior to completion of transportation. The Petitioner further contended that during movement of goods, the vehicle developed a "technical snag" and the person in charge had to halt the vehicle for approximately three hours for routine maintenance. The Respondent contended that transportation after expiry of the e-way bill constituted contravention of the provisions of the Act and Rules and therefore attracted detention and penalty under Section 129 of the WBGST Act, 2017.

Aggrieved by the order dated May 12, 2022 passed under Section 129(3) of the WBGST Act, 2017 and the appellate order dated November 11, 2024 affirming the same, the Petitioner approached the Hon'ble Calcutta High Court by way of writ petition challenging the levy of penalty.

Issue:

Whether mere expiry of e-way bill during transportation, in absence of intention to evade payment of tax and where accompanying documents were otherwise genuine, justified imposition of 200% penalty under Section 129 of the WBGST Act, 2017?

Held:

The Hon'ble Calcutta High Court in ***WPA 28356 of 2024*** held as under:

- Observed that, Section 129 of the WBGST Act deals with detention, seizure and release of goods in transit and what is required to be considered is whether there was contravention of the provisions of the Act.
- Noted that, the second proviso to Rule 138(10) permits extension of validity period of e-way bill in exceptional circumstances including trans-shipment and the third proviso allows such extension within eight hours from expiry of the e-way bill.
- Observed that, the Rules themselves provide certain latitude and therefore conduct of the transporter is required to be examined while considering imposition of penalty.

- Noted that, in the present case, the Petitioners could have extended the validity period till 8:00 AM on May 9, 2022 and the vehicle was intercepted at 8:50 AM, thereby resulting in delay of approximately 50 minutes.

- Observed that, there was no allegation of intention to evade payment of tax and imposition of 200% penalty in the peculiar facts of the case was harsh and disproportionate.

- Held that, the order dated May 12, 2022 passed by the Deputy Commissioner and the appellate order dated November 11, 2024 were liable to be set aside and substituted with token fine of Rs. 10,000/-.

- Directed that, the Respondent authority shall refund the balance amount after adjusting Rs. 10,000/- from the amount already deposited by the Petitioners as penalty.

Our Comments:

The present judgment continues the evolving judicial approach that procedural lapses relating to e-way bills, without any allegation or evidence of tax evasion, should not mechanically attract the drastic penalty contemplated under Section 129 of the GST enactments. The reasoning adopted in ***Progressive Metals Pvt. Limited vs. The Deputy Commissioner, State Tax, Bureau of Investigation South Bengal, Durgapur Zone & Ors. [MAT 562 of 2023 with I.A. No. CAN 1 of 2023, order dated April 28, 2023]*** and ***Hindusthan Biri Leaves & Anr. vs. Assistant Commissioner of State Tax, Bureau of Investigation, Durgapur Zone & Ors. [MAT 1847 of 2024 with I.A. No. CAN 1 of 2025, WPA 8453 of 2024, order dated September 9, 2025]*** is that absence of mens rea and existence of genuine transportation documents are relevant considerations while examining proportionality of penalty under Section 129.

Further the Division Bench decision in ***Ashish Kumar Sharma vs. The Deputy Commissioner, State Tax, Bureau of Investigation, South Bengal, Howrah Zone & Ors. [FMA 504 of 2024, order dated April 25, 2025]***, wherein the Calcutta High Court observed that although Section

129 statutorily prescribes stringent penalty, authorities cannot ignore the element of "mens rea" altogether and are required to examine accompanying documents to ascertain whether there was any intention to evade tax. In that case also, the Court held that imposition of 200% penalty would be harsh where no discrepancy existed in the accompanying documents.

Relevant Provisions:

Section 129 of the WBGST Act, 2017

"129. Detention, seizure and release of goods and conveyances in transit.-

(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,-

(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;

(b) on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;

(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods."

Rule 138(10) of the WBGST Rules, 2017

"138. Information to be furnished prior to commencement of movement of goods and generation of e-way bill. –

(10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance, within the country, the goods have to be transported, as mentioned in column (2) of the said Table: -

Sl. No	***Distance***	***Validity period***
(1)	***(2)***	***(3)***
1.	*Up to 200 km.*	*One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship*
2.	*For every 200 km. or part thereof thereafter*	*One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship*
3.	*Upto 20 km*	*One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship*
4.	*For every 20 km. or part*	*One additional day in case of Over Dimensional Cargo or*

	thereof thereafter	*multimodal shipment in which at least one leg involves transport by ship:*

Provided that the Commissioner may, on the recommendations of the Council, by Notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein:

Provided further that where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01, if required.

Provided also that the validity of the e-way bill may be extended within eight hours from the time of its expiry.

Explanation 1. - For the purposes of this rule, the "relevant date" shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

Explanation 2. - For the purposes of this rule, the expression "Over Dimensional Cargo" shall mean a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988 (59 of 1988)"

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