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TAX ALERT

INDIRECT TAX - GST

Interception of "Goods in Transit" under GST: Can a "Transit State" levy penalty?

Allahabad High Court examines the jurisdictional issue in *Maruti Enterprises v. State of Uttar Pradesh*

The Allahabad High Court, in the case of ***Maruti Enterprises v. State of Uttar Pradesh***, has delivered an important ruling on the powers of GST authorities while intercepting goods in transit. The judgment draws a clear distinction between the **power to inspect goods in transit and the power to adjudicate proceedings under Section 129 of the CGST Act, 2017**.

Background:

- The petitioner transported goods from **West Bengal to Delhi** under a valid tax invoice and e-Way Bill.
- During transit, the vehicle was intercepted by the **Uttar Pradesh GST authorities** on the allegation that an **e-tax invoice had not been generated** in accordance with **Rule 48 of the CGST Rules, 2017**.
- Although the movement of goods **neither originated nor terminated in the State of Uttar Pradesh**, the authorities detained the goods, initiated the proceedings and levied penalty under **Section 129 of the CGST Act, 2017**.

Issue before the Court:

- Whether a **transit State**, through which goods merely pass, can assume jurisdiction to adjudicate proceedings and levy penalty under **Section 129 of the CGST Act, 2017**, despite the transaction having **no territorial nexus** with such State.

Ruling of the Allahabad High Court:

The Court answered the issue in the negative and held that:

- A transit State undoubtedly possesses the authority to intercept, inspect and verify goods moving through its territorial limits.
- Where the movement of goods has no territorial nexus with the transit State, such State should not assume jurisdiction to adjudicate proceedings. The power to impose penalty under Section 129 should vest only with the competent jurisdictional State. Such jurisdiction shall lie with the State of origin or destination, as the case may be.

The Practical Challenge:

- Circular No. **41/15/2018-GST** does not prescribe any procedure for transferring proceedings from the transit State to the jurisdictional State.
- The GST Portal does not currently provide a seamless electronic workflow for the intercepting (roving) officer to transfer detention proceedings to the competent jurisdictional authority.
- Currently, the GST Portal enables taxpayers to discharge penalty under the respective CGST/SGST/IGST heads, as applicable. However, there is no mechanism to automatically identify and route such penalty payment to the competent jurisdictional State where goods are intercepted in a different State.

Recommended framework for effective implementation:

To effectively operationalize the principles laid down by the Court, CBIC may consider the following measures:

1) Standardized inter-state referral mechanism

- A dedicated electronic form (similar to **GST MOV-10**) may be introduced to enable the intercepting officer to record the contravention.
- The form may facilitate electronic transfer of the proceedings to the competent jurisdictional authority in the State of origin or destination for adjudication.

2) Time-bound transfer of proceedings

- A definite timeline of 48 to 72 hours may be prescribed for transfer of proceedings by the transit State to the competent jurisdictional authority. The receiving authority may acknowledge such transfer and initiate proceedings within a stipulated timeframe.

3) Restrict Adjudication by Transit State

- The Circular may clarify that where the intercepted goods have no origin or destination nexus with the transit State, the powers of intercepting authority shall be limited to inspection and verification. The power to adjudicate proceedings under Section 129 of the CGST Act, 2017 and recover penalty may vest exclusively with the competent jurisdictional State.

4) Appropriate revenue safeguards

- Pending transfer of proceedings, suitable safeguards such as bond, bank guarantee, or other security may be prescribed wherever warranted under law. This would protect revenue interests while ensuring expeditious release of goods.

5) Real-time penalty allocation through GST Portal

- To eliminate jurisdictional disputes, CBIC may introduce a portal-based mechanism to automatically identify the competent jurisdictional State based on the GSTIN, e-Way Bill particulars and place of supply. The system may electronically transfer proceedings, generate challans in favour of the competent State irrespective of the State of interception, and credit the penalty, accordingly, thereby ensuring seamless adjudication with minimal manual intervention.

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