

S.N.	Case Subject	Case	Held
1.	Is intent to evade be seen in case of Movement of Goods with Expired E-way Bill	Pushpa Devi Jain v. Assistant Commissioner of Revenue, [2023] 149 taxmann.com 206 (Calcutta) (03-03-2023)	Petitioner relied upon the judgement delivered by the Hon'ble Supreme Court in <i>Satyam Shivam</i> . The High Court observed that apart from a bald statement that the vehicle broke down in the midst of the journey, there was no document in support of such statement. As long as the provision to revalidate the e-way bill remained in the rule book, the same was required to be strictly complied despite the fact that the same may be practically difficult to implement. There is no scope to exercise discretion at any stage and opportunity of hearing was given to allow the person in charge of the goods and/or the conveyance to produce relevant documents to rebut the charge and not for examining the reason or ground for not being able to act in accordance with law. This Judgement was reversed in Pushpa Devi Jain v. Assistant Commissioner of Revenue [2023] 152 taxmann.com 239 (Calcutta) (21-03-2023) has been discussed hereinafter.
2.	Levy of Penalty dropped for failure to extend validity of Eway Bill	Pushpa Devi Jain v. Assistant Commissioner of Revenue [2023] 152 taxmann.com 239 (Calcutta) (21-03-2023)	The goods were detained as e-way bill had expired at 11:59 hours on 22 nd April, 2022 and it had to be revalidated by 8 a.m. on 23 rd April, 2022. However, said date was a Saturday and the vehicle was intercepted at 8.52 a.m. There was no other allegation against the petitioner. The High Court considered the peculiar facts of the case and observed that there was no lack of bona fide on the part of the appellant to state that there was wilful misconduct committed by the appellant while transporting the goods. There was every possibility that even if an application was made for extension of the e-way bill within the time permitted, 23rd April, 2022 being a Saturday, the e-way bill, in all probabilities, would not have been revalidated within the eight hours period. Therefore, the appeal was allowed and the order was set aside by holding that considering the facts and circumstances of the case, the authority could not have imposed penalty on the appellant
3.	Intent to Evade not to be seen in cases wherein goods transferred to another vehicle and E-way Bill not generated	Asian Switchgear (P.) Ltd. v. State Tax Officer [2023] 149 taxmann.com 120 (Calcutta) (03-03-2023)	The Court observed that the moment the goods are unloaded from the vehicle in respect of which e-way bill was generated and loaded in a different vehicle without any e-way bill a statutory breach is committed, liable to be dealt with in accordance with the statute. It is not for the authority to ascertain the reason as to why such action has been undertaken. There is no requirement in law to verify the reason for transporting goods in a vehicle without a proper e-way bill. The Court further observed that decision of Hon'ble Apex Court in <i>Satyam Shivam</i> does not fit into the facts of the present case, and accordingly, the ratio laid down therein cannot be made applicable in the facts and circumstances of the instant case. On the other hand, it relied upon the precedence laid down by Hon'ble Apex Court in the matter of <i>Guljag Industries</i> wherein it was held that breach of statutory provision would attract levy of penalty and the officer does not have any authority to either reduce or waive the penalty. They further held that decision of the same High Court in <i>Ashok Kumar Sureka</i> cannot be treated as precedent. The High Court thereafter looking to admission of the petitioner that the vehicle in which the goods stood transferred for being transported allegedly to the pre-recorded destination, did not have an e-way bill, held that Section 129 will be attracted in such a situation
4.	No Intent to evade to be checked if goods transported without valid E-way Bill	Abinash Kumar Singh v. State of West Bengal [2023] 148 taxmann.com 393 (Calcutta) (03-03-2023)	The Court observed that when the vehicle of the petitioner was intercepted, the same did not have a valid e-way bill. The e-way bill, on the basis of which the goods were transported, expired prior to the vehicle reaching the final destination. Regarding no intent to evade being present, the High Court observed that if the contention of the petitioner is to be accepted, then the authority will be flooded with a plethora of reasons from the errant transporters for not being able to deliver the goods within time. In such a situation, the authority may exercise discretion either to accept or reject the ground put forth for explaining the delay in transportation. The same will give rise to an anomalous situation when the authority may adopt pick and choose method as per their choice and tend to exercise discretion arbitrarily. Law does not provide such unbridled power and right to the authority. In case of statutory violations, the statutory consequential steps are required to be undertaken. Thus, it was held that as section 129 opens with a non obstante clause which lends a mandatory character to the same, thus petitioner might or might not have been directly responsible for the delay in issuance of the gate pass, but he was certainly at fault.
5.	No Intent to Evade to be established in case of movement with Expired E-Way Bill	Ashok and Sons (HUF) v. Joint Commissioner, State Tax [2023] 147 taxmann.com 582 (Calcutta) (06-02-2023)	The Court observed that petitioner's consignment was found lying within the territory of the state for more than three days. The E-Way bill had expired. The driver of the vehicle stated that the vehicle suffered a breakdown. In support of his contention he failed to produce proper document. The petitioner had the opportunity to extend the validity of the E-Way bill when the goods vehicle was allegedly had mechanical defect. The petitioner did not take any step for extension of E-Way bill. The High Court also held that the ratio laid down in <i>Hanuman Ganga Hydroprojects (P.) Ltd. (supra)</i> and <i>Ashok Kumar Sureka (supra)</i> are not applicable in the instant case. The High Court held that when the E-Way bill has not been extended it would be presumed that the consignment was sent to the State of West Bengal and therefore, the respondent authority was lawfully permitted to impose penalty under section 129 as well as the SGST as the goods were found to be detained in the territory of the State
6.	Vehicle intercepted with Cancelled E-way Bill and matter remanded back to establish bonafide	Rumki Biswas v. Senior Joint Commissioner, Commercial Taxes [2023] 148 taxmann.com 359 (Calcutta) (01-12-2022)	In the instant matter appellant had generated part A of the e-way bill on 22 nd March, 2022 and part - B was generated on 24 th March, 2022. However, since the goods could not be loaded into the vehicle, the appellant cancelled part A of e-way bill dated 22 nd March, 2022 and generated new part A e-way bill on 24 th March, 2022. When the vehicle was intercepted, the driver was carrying part B of e-way bill in respect of which part A has been cancelled. The High Court observed that the short point, which was required to be canvassed by the appellant before the appellate authority was to establish the bona fides of the appellant and to prove that there was no intention to evade payment of duty. Since this aspect was not adequately dealt with by the appellate authority and taking note of the peculiar facts and circumstances arising in the case on hand, matter was remand back to the appellate authority for a fresh consideration bearing in mind the conduct of the appellant. The appellant was directed to place all the materials in support of their claim without unnecessary burdening the appellate authority.