

S.N.	Case Subject	Case	Held
1.	No Requirement to check intent to evade	<b>Sterile India (P.) Ltd. v. Union of India [2023] 149 taxmann.com 5 (Punjab &amp; Haryana)</b>	<b>The Court observed that for the purpose of Section 129 of the CGST/SGST Act, 2017 there is no requirement that there should be intention to evade tax. The authorities are not required to establish intention to evade payment of tax.</b> It was stated that Section 129 has been enacted to check evasion of tax. If the goods are intercepted during transit and the documents accompanying the goods are not in compliance with the provisions of the Act, authorities are within their power to detain the goods and demand payment of tax and 100% penalty under the provisions. It was further observed by the Court that the petitioner did not deny that payment under Section 129(3) of the CGST/SGST Act, 2017 had been made. Therefore, keeping in view the bare provision of Section 129 (5) it was further observed that all proceedings in respect to the notice were deemed to have been concluded
2.	Intent to Evade to be established for levy of penalty for movement with Expired E-way Bill	<b>Shree Govind Alloys (P.) Ltd. v. State of Gujarat [2023] 148 taxmann.com 382 (Gujarat)</b>	The Court observed that e-Way Bill had expired 41 hours before and the detention was also on the ground that the goods are of expiration of the e-Way bill number, which had expired during the transit. The Court relied upon the decision in <i>Govind Tobacco Manufacturing Co. v. State of U.P.</i> , [2022] 140 taxmann.com 383 (Ahahabad) wherein it was held that as there is expiry of e-Way bill on transit, the seizure of said vehicle and the goods is not permissible under the law. It further relied upon the decision of High Court of Madhya Pradesh in <i>M/s. Daya Shaker Singh v. State of Madhya Pradesh</i> passed in Writ Petition No.12324 of 2022 on 10-8-2022, where also the Court had intervened considering the fact that the respondent could not establish any element of evasion of tax with fraudulent intent or negligence on the part of the petitioner. <b>The Court thereafter allowed the petition while observing that the delay appeared to be bona fide and without establishing any fraudulent intention and there was no fraudulent intention for this to happen.</b>
3	No Penalty for movement with Expired Eway Bill if mens rea not proved by Revenue	<b>Orson Holdings Company Ltd. v. Union of India [2023] 147 taxmann.com 71 (Gujarat)</b>	In the instant case, goods which were to be delivered, could not be delivered in time and when inspected, some of the e-Way bill numbers had shown expired. The company was situated at Howrah, West Bengal and the place of delivery was Jamnagar, Gujarat and in transit, this e-Way bill has expired. <b>The Court held that the case is squarely covered by the decision of this Court in Shree Govind Alloys (P.) Ltd. which has not been further challenged and even otherwise, from the facts which are robust in nature, it can be gathered that there does not appear to be any ill-intent on the part of the petitioner to use the expired e-Way bill.</b>
4.	Mens Rea needs to be established by the authority in was of movement of goods with Expired E-way Bill	<b>Sanskruthi Motors v. Joint Commissioner (Appeals) [2022] 145 taxmann.com 164 (Kerala)</b>	<b>The reason for invoking Section 129 of the CGST laws was that the e-way bill has expired.</b> The Court distinguished the decision of Division Bench of Kerala High Court in Renjilal Damodaran's case and took a different view as the Division Bench did not consider the question as to whether the imposition of a major penalty along with a demand for IGST was justified for the reason that the e-way bill had expired. The Court relied upon the judgement in the matter of <i>Podaran Foods India (P.) Ltd.v. State of Kerala [2021] 123 taxmann.com 282</i> and also on the Judgement of Division Bench of the Telangana High Court in <i>Satyam Shivam Papers (P.) Ltd's case (supra)</i> and stated <b>that the officer was duty bound to consider the explanation offered by the petitioner for the expiry of the e-way bill. There was no finding that there was any attempt to evade tax.</b> Further it was also observed by the Court that the judgment of Telangana High Court in <i>Satyam Shivam Papers (P.) Ltd.'s case (supra)</i> was challenged before the Supreme Court and the Special Leave Petition was dismissed by a speaking order. <b>In view of the aforesaid findings, the order was quashed and remanded back to consider the amount of penalty to be imposed on the petitioner taking note of the findings in the Judgment</b>
5.	Intent to Evade required to be proved in case of movement of goods with Expired Eway Bill and applicability of Section 126 for levy of penalty commensurate to the breach	<b>Daya Shanker Singh v. State of Madhya Pradesh [2022] 142 taxmann.com 266 (Madhya Pradesh)</b>	E-way Bill was valid upto 19-5-2022 and truck was intercepted on 20-5-2022 at 4.35 A.M. The petitioner contended that there was no element of tax evasion, fraudulent intent and negligence on his part was not rebutted by learned counsel for the respondents. The petitioner relied upon the judgement by <i>Telangana High Court in the matter of Satyam Shivam Papers (P.) Ltd. v. Asstt. CST [2021] 127 taxmann.com 646/50 GSTL 459/5 GSTJ Online 174</i> against which the revenue filed by SLP was dismissed with a speaking order in the matter of <i>Asstt. CST v. Satyam Shivam Papers (P.) Ltd. [2022] 134 taxmann.com 241/57 GSTL 97/90 GST 479/[2022] 7 GSTJ Online 16 (SC)</i> . The reliance was also placed on the judgement of Calcutta High Court in <i>Ashok Kumar Sureka v. Asstt. Commissioner, State Tax Durgapur Range [2022] 7 GSTJ Online 78 (Cal.)</i> . <b>The High Court observed that the revenue could not establish that there exist any element of evasion of tax, fraudulent intent or negligence on the part of the petitioner and thus held that in the above backdrop, the impugned notice/order could not have been passed.</b> Further Court also observed that principles of natural justice were statutorily recognized and ingrained alongwith doctrine of proportionality while bringing sub-section (1) of section 126 in the Statute Book and punishment should be commensurate to the breach is the legislative mandate as per sub-section (1) of section 126. <b>Thus, it was held that in the instant case, the delay of almost 4:30 hours before which E-way Bill stood expired appeared to be bonafide and without establishing fraudulent intent and negligence on the part of petitioner, the impugned notice/order could not have been passed</b>