

S. N.	Section	Case Subject	Case	Held
1.	Section 129	Looking to the peculiar circumstances penalty was not leviable for Expired Eway Bill and High Court recognized that Rule 138(10) when provides for extension of e-way bill also mandates to look at the conduct of the party for levy of penalty	Progressive Metals (P.) Ltd. v. Deputy Commissioner, State Tax [2023] 152 taxmann.com 158 (Calcutta)	<p>Vehicle along with the goods entered the Durgapur industrial belt within the validity of the e-way bill. The vehicle was intercepted on 9th May, 2022 at 9:35 AM at Durgapur and the vehicle was detained along with the goods on the ground that the e-way bill had expired on 8th May, 2022 at 11:59 AM. The explanation given by the appellant was that it was a Sunday and the consignee had given instructions to unload the goods at a different location within the same area and in this regard the appellant had produced e-mail sent by the consignee stating that they had given instructions subsequently to unload the goods at a different location within the area to which the goods were sent as per the e-way bill.</p> <p>The High Court observed that there was no intention on the part of the appellant to evade payment of tax. In any event, in terms of rule 138 of the WBGST Rules, if an e-way bill had expired, the transporter had 08 hours time to seek for extension of the time stipulated in the e-way bill. If that allowance is given, at the time when the vehicle along with the goods were intercepted, it was delayed by about 01 hour and 35 minutes. The particular details given in e-way bill will show that area Durgapur has also been mentioned. It is not disputed that vehicle was within the Durgapur industrial belt though not at Panagarh. Thus, considering the peculiar facts and circumstances of the case and in the absence of any material produced by the revenue to doubt the bona fides of the appellant, High Court held that penalty should not have been imposed in this case.</p> <p>The revenue relied upon the judgement of Hon'ble Supreme Court in <i>Chairman, SEBI v. Shriram Mutual Fund & Anr.</i> reported at [2006] 5 SCC 361 for the proposition that the intention of the authority committing such violation becomes immaterial when there is a contravention of the statutory obligation.</p> <p>The High Court observed that third proviso to Rule 138(10) states that the validity of e-way bill may be extended within 8 hours from the time of its expiry. Thus, the rules give certain latitude and therefore, the conduct of the transporter was required to be examined bearing in mind that the rule itself provides for extension of the validity period of the e-way bill and the transporter has been given a latitude of 8 hours to seek for such extension. If that benefit was to be granted to the appellant, then the delay would be about 1 hour and 35 minutes. There is no other allegation against the appellant. Therefore, considering the peculiar facts and circumstances of the case, the High Court held that this was not a case, where penalty that too 200% penalty should have been imposed.</p>
2.	Section 112	Non-Constitution of Tribunal	Essar Steel Suppliers v. Union of India [2023] 152 taxmann.com 128 (Bombay)	<p>In the instant case, petition under Article 226 of the Constitution of India was filed to challenge an Order-in-Appeal dated 21 April, 2021 passed by the Commissioner of Central Taxes, Central Excise & Service Tax (Appeals), Raigarh. Against the said order, an appeal was provided under Section 112 of the Central Goods and Service Tax Act, 2017 to the Appellate Tribunal. However, till today, the Tribunal has not been set up.</p> <p>The High Court relying upon its Judgement in Rochem India Pvt. Ltd. v. The Union of India & Ors.) dated 8 February 2023 held that the period of filing the Appeal will stand extended as indicated in Clause 4.2 of the Circular dated 18 March 2020 and impugned order will not be given effect until two weeks after the period prescribed for filing an appeal as under Clause 4.2 of Circular dated 18 March 2020 is over.</p>
3.	Section 129	High Court Mandates levy of penalty of Rs 50000 for generation of new Eway Bill without extending the validity of previous Eway Bill	Bitumix India LLP v. Deputy Commissioner of Revenue, State Tax. [2023] 152 taxmann.com 122 (Calcutta)	<p>The goods which were being transported by the appellants to Assam were covered by e-Way Bill which was valid upto 18th March, 2022. On account of the breakdown of the vehicle the goods did not move outside the territory of the State of West Bengal and was stationed at Dankuni on 18.03.2022. The consignee in the meantime had sold the goods which were in transit to another purchaser in Assam and the goods were transported by the same vehicle after generating a new e-Way Bill on 22.03.2022. The vehicle was detained on 25.03.2022 and order of penalty has been passed on the ground of first e-Way Bill on 18.03.2022 had not been renewed/extended by the appellants.</p> <p>The High Court observed that it is not in dispute on the date and time and the goods were intercepted that was on 25.03.2022 the appellants had a valid e-Way Bill. The only mistake committed by the appellants was of not renewing the e-Way Bill which expired on 18.03.2022. This in opinion of the High Court should not have been done since the goods were sold in transit. Therefore, violation had been committed by the appellants but the violation was not as grave enough to call for imposition of penalty at the rate of 200% as on the date when the vehicle was intercepted the goods were covered by a valid e- Way Bill which satisfies the requirement under Section 129 of the Act. However, the High Court further held that that the mistake committed by the appellants in not renewing the earlier e-Way Bill which expired on 18.03.2022 the appellants should be put on terms and thus the order passed was modified with the direction to the appellants to pay a penalty of Rs.50,000/- which will include both CGST and WBGST instead of 200% penalty as imposed by the authorities.</p>