

Part-59-One Pager Snapshot to the Latest Cases

CA Arpit Haldia

S. N.	Section	Case Subject	Case	Held
1.	Section 107	Rejection of Appeal on technical ground	Rama Shanker Modi v. A C, CGST & CE [2023] 153 taxmann.com 326 (Calcutta)	<p>The petitioner filed the appeal electronically within time but the appeal of the petitioner was dismissed on the technical ground of filing certified copy of the order against which appeal was filed as beyond time.</p> <p>The High Court observed that the appeal of the petitioner was dismissed only on the technical ground without going into the merit and thus the order was <i>set aside</i> and the matter was remanded back to the appellate authority concerned to accept the certified copy filed by the petitioner beyond time and consider and dispose of the appeal in question in accordance with law.</p>
2.	Section 129 and Section 130	Buyer to establish his own credentials and not that of the seller	Arhaan Ferrous And Non-Ferrous Solutions (P.) Ltd. v. Deputy Commissioner-1(ST) [2023] 153 taxmann.com 325 (Andhra Pradesh)	<p>Facts of the Case-The proper officer intercepted the lorries on 12-6-2023 which were found carrying iron scrap covered by bill and e-way bills. They revealed that the consignor without having place of business at Vijayawada, transported the goods. According to the proper officer, the enquiry conducted by Joint Commissioner (ST), Kurnool, revealed that the consignor was not doing business at the given address at Kurnool and there was no such person and therefore, his GST registration was suspended w.e.f. 13-6-2023 and enquiry was initiated against consignor by issuing notice of confiscation in Form GST MOV-10 under section 130 of the CGST/APGST Act, 2017. The contention of the Revenue was that since the existence and business activities of the consignor were highly doubtful, confiscation proceedings U/s 130 of the CGST/APGST Act, 2017 can be launched directly against consignor without reference to the petitioners and as the petitioner claims to be the purchaser from the consignor, he has to establish that he is a <i>bonafide</i> purchaser from consignor for valuable consideration by paying the due tax without knowing the credentials of consignor by participating in the enquiry proceedings initiated against the consignor.</p> <p>Question before the Court-Whether Proper Officer can confiscate the goods of petitioner without initiating any proceedings against him U/s 129 but initiating proceedings U/s 130 of CGST/APGST Act against the consignor on the ground of dubious credentials of consignor.</p> <p>Observation- Proper Officer may initiate proceedings against consignor U/s 130 in view of his absence in the given address and not holding any business premises at Vijayawada, however, he cannot confiscate goods of petitioner merely on the ground that he happens to purchase goods from consignor. Even assuming petitioner partakes in the enquiry proceedings against the consignor, his responsibility will be limited to the extent of establishing</p> <ol style="list-style-type: none"> That he <i>bonafidely</i> purchased goods from the consignor for consideration by verifying GST registration of consignor available on official web portal. That was not aware of the credentials of the consignor. Mode of payment of consideration. Mode of receiving of goods from the consignor through authenticated documents. <p>Petitioner cannot be</p> <ol style="list-style-type: none"> Expected to speak about the business activities of the consignor and Expected to speak about whether consignor obtained GST registration by producing fake documents. <p>Held- In essence, petitioner has to establish their own credentials but not of the consignor. In that view, the proper officer was held incorrect in roping the petitioners in the proceedings initiated against the consignor without initiating independent proceedings U/s 129 of CGST/APGST Act against the petitioners. As the petitioner claimed to have purchased goods from the consignor whose physical existence in the given address was highly doubtful as per the enquiry conducted by the Joint Commissioner (ST), Kurnool, the petitioner was thus held to owe a responsibility to prove the genuineness of the transactions between him and the consignor. Therefore, the proper officer was held entitled to initiate proceedings U/s 129 of CGST/APGST Act against the petitioners and conduct enquiry by giving opportunity to the petitioners to establish their case. The writ petitions were accordingly disposed of giving liberty to the proper officer to initiate proceedings against the petitioner's U/s 129 of CGST/APGST Act, 2017 and conduct enquiry by giving an opportunity of hearing to the petitioners and pass appropriate orders in accordance with governing law and rules.</p> <p><i>Cases Referred-</i> Rajeev Traders v. Union of India [2022] 142 taxmann.com 420 (Kar.), Synergy Fertilchem (P.) Ltd. v. State of Gujarat [2019] 112 taxmann.com 370 (Guj.)/2020(33) G.S.T.L 513 (Guj.)</p>