

S.N.	Subject	Case	Held
1.	Incorrect Mentioning of Distance due to inadvertent and clerical error to be covered under Circular Dated 14 <sup>th</sup> September 2018	<b>Tirthamoyee Aluminium Products v. State of Tripura [2021]</b> 127 <b>taxmann.com</b> 680 (TRIPURA)	<b>The error in</b> generating e-way bill was on account of incorrect distance being shown while generating the E-way bill. Based on calculation that Eway bill was generated for a validity period at the rate of one day per 100 Kms., E-way bill was generated with validity of 5 days instead of 15 days' validity which should have been provided had correct distance been mentioned. <b>The Court observed</b> that the authority did not have the power to demand GST with penalty in the given case. CBIC has issued a circular dated 14 <sup>th</sup> September, 2018 to clarify the manner in which such clerical errors would be dealt with. Referring to the Circular Dated 14 <sup>th</sup> September 2018, the Court observed that in the e-way bill it is categorically stated that the goods were being dispatched from Howrah, West Bengal and being delivered to Tirthamoyee Aluminium Products at Agartala, Tripura - 799003. The distance between Howrah to Agartala is approximately 1500 Kms and due to clerical error the distance was reflected as 470 Kms instead of 1470 Kms because of which the validity of the e-way bill expired on 30-10-2018. The Court in view of such facts, found it a fit case where they should not relegate the petitioner to appeal remedy and more importantly when order passed by the Inspector of State Tax suffered from gross irregularity of no hearing been granted to the petitioner
2.	Minor Discrepancy in Vehicle Number not to result in Penalty is Intent to Evade absent	<b>Varun Beverages Ltd. v. State of U.P [2023]</b> 147 <b>taxmann.com</b> 341 (Allahabad)	<b>The issue before</b> the Court was whether wrong mention of number of Vehicle No. HR-73/6755 through which the goods were in transit and detained by the taxing authorities would be considered as a human error and will be covered under the circular No. 41/15/2018-GST dated 13-4-2018 and 49/23/2018-GST dated 21-6-2018, as the number mentioned in the e-way bill was UP-13T/6755 and the mistake is of only of HR-73 in place of U.P.-13T. <b>The Department did</b> not place any other material so as to bring on record that there was any intention on the part of the dealer to evade tax except the wrong mention of part of registration number of the vehicle in the e-way bill. The vehicle through which the goods were transported and the bilty showed the one and the same number while only there was a minor discrepancy in Part-B of the e-way bill where the description of the vehicle is entered by the dealer. <b>The Court observed</b> that the present case was of a case of stock transfer and since there was no intention on the part of dealer to evade any tax, the minor discrepancy as to the registration of vehicle in State in the e-way bill would not attract proceedings for penalty under section 129 and the order passed by the detaining authority as well as first appellate authority cannot be sustained
3	Intent to evade to be proved for levy of penalty U/Sec 129 wherein incorrect address mentioned inadvertently	<b>Amara Raja Batteries Ltd. v. State of Madhya Pradesh [2022]</b> 142 <b>taxmann.com</b> 192 (Madhya Pradesh)	<b>In the instant</b> case, the sole ground raised was that due to inadvertence during generation of the e-way bill, a clerical error took place due to which the registered address of the petitioner at Indore was mentioned in the e-way bill instead of the address at Jabalpur. <b>The Court</b> observed that in penal provision such as section 129 of the GST Act, the element of intention to evade tax must be present to sustain an order of penalty. To gather the intention of the petitioner an inquiry has to be undertaken to ascertain whether the mistake was inadvertent with no element of malice or intention to evade tax. It does not appear that either the Taxing Authority or the appellate authority has undertaken the said exercise of conducting an inquiry to ascertain the real intent behind the act of petitioner to mention wrong address. The Court thus held that an inquiry needs to be conducted at the level of appellate authority to ascertain whether there was any malicious intention to evade tax on the part of the petitioner or not
4	Mere incorrect mentioning of address of one branch instead of another as recipient of goods in case of Stock Transfer does not entail levy of penalty	<b>Same Deutzfahr India (P.) Ltd. v. State of Telangana* [2022]</b> 143 <b>taxmann.com</b> 123 (TELANGANA)	<b>The goods were</b> detained because as per invoice they were being transported from Ranipet, Tamil Nadu to Bongalur village, Ibrahimpatnam Mandal, Hyderabad, but as per e-way bill, the goods have to be transported from Ranipet, State of Tamil Nadu to Hayathnagar in the State of Telangana and so there is mismatch with the invoice and e-way bill. <b>The Court observed</b> that petitioner's registration certificate in the State of Telangana itself disclosed that its principal place of business was Hayathnagar and its additional place of business was at Bongalur village, Ibrahimpatnam Mandal. Once it is clear that petitioner has additional place of business in the State of Telangana in Bongalur village, Ibrahimpatnam Mandal and the goods were being transported to that address from its Corporate office at Ranipet, Tamil Nadu State, it cannot be said that petitioner was indulging in any illegal activity when the tax invoice shows that the supplier is the petitioner's Corporate office in Ranipet, Tamil Nadu State and that it was shipped to its Depot in Bongalur village in Ibrahimpatnam Mandal. Thus, it was held that there was no occasion for the respondent to collect tax and penalty from the petitioner on the pretext that there is illegality in the transport of goods as it would merely amount to stock transfer and there is no element of sale of goods or services in it.
5	CGST/SGST being charged instead of IGST leviable with Minor Penalty as error corrected by credit/debit note	<b>S.P. Traders v. Assistant State Tax Office [2023]</b> 147 <b>taxmann.com</b> 139 (Kerala)	<b>In the given</b> matter, invoice accompanying the goods, tax paid was shown to be under CGST & SGST, whereas it should have been shown as tax paid towards IGST. However, in the E-way bill accompanying the goods the tax paid was correctly shown as paid towards IGST. <b>The Court observed</b> that it cannot be lost sight of that in E-way bill accompanying the goods, the tax paid was correctly shown as IGST. The learned counsel appearing for the petitioner states that the mistake has been corrected while issuing credit note/debit note and in the monthly return filed for the month of July 2022, the amount paid has been correctly shown as IGST. The Court held, that there will be an interim order directing the 1st respondent to verify monthly returns filed by the petitioner for the month of July 2022 and determine whether the amount in question was correctly shown as IGST instead of CGST/SGST. If the officer finds that the amount has been correctly shown as IGST in the monthly returns filed for the month of July 2022, notwithstanding the issuance of order, the officer shall consider whether the mistake committed by the petitioner can be penalized by imposing a minor penalty.