

GST : Where due to a typographic error while generating Eway bill, petitioner mentioned approx distance between Puducherry to Himachal Pradesh as 20 Kilometers instead of 2000 Kilometers, as a result of which, a validity of one day had been calculated by Eway bill portal instead of twenty days and on expiry of Eway bill on very next day and interception of consignment before reaching destination, no violation of Rule 138 could be alleged to levy penalty

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**[2020] 114 taxmann.com 453 (AA- GST - HP)
Appellate Authority - GST, HIMACHAL PRADESH
Godrej Consumer Products Ltd.**

v.

ACST & E-Cum Proper Officer Circle Baddi

**ROHIT CHAUHAN
ORDER NOS. 2986-91
FEBRUARY 11, 2020**

Section 129 of the Central Goods and Services Tax Act, 2017/ Section 129 of the Himachal Pradesh Goods and Services Tax Act, 2017, read with Rules 138 and 138D of the Central Goods and Services Tax Rule, 2017/ Rules 138 and 138D of the Himachal Pradesh Goods and Services Tax Act, 2017 - Detention, seizure and release of goods and conveyance in transit - Goods were being transported from Puducherry to Shimla - Appellant's truck was carrying all legal documents including E-way bill, and said E-way bill duly contained all information which was ought to be filled under Rule 138 of CGST/HPGST Rule 2017 -However, due to typographical error, approximate distance was mentioned 20 KM instead of 2000 KM -As a result, a validity of one day had been calculated by Eway bill portal instead of twenty days - Validity of E-way bill expired before reaching destination - Whether since other details mentioned in relevant Form were consistent with invoice and consignment, in view of Circular No. 64/38/2018, dated 14-9-2018, tax and penalty could not be imposed as there was no violation of Rule 138 - Held, yes - Whether additional demand and penalty deposited was to be refunded - Held, yes [Para 7]

Circulars and Notifications: Circular No. 64/38/2018, dated 14-9-2018.

CASE REVIEW

Sabitha Riyaz v. The Union of India (WP (C) 34874 of 2018) = 2018 (11) TMI 213 - Kerala High Court, followed.

Vijay Dhiman for the Appellant. **Deep Chand** and **Ajay Kumar** for the Respondent.

ORDER

1. At the outset, I would like to make it clear that the provisions of both the Himachal Pradesh Goods and Service Tax Act, 2017 and Central Goods & Service Act, 2017 (hereinafter referred to as HPGST and CGST Act respectively) are the same except for certain provisions. Therefore, unless a mention is

specifically made to such dissimilar provisions, a reference to the HPGST Act would also mean a reference to the corresponding similar provisions under the CGST Act.

2. This appeal has been filed against the order dated 24-09-2018 passed by the Asst. Commissioner State Taxes & Excise (ACST&E)-cum-Proper Officer, Baddi Circle-II, BBN, District Solan vide which an additional demand was created against the appellant under Rule 138 of HPGST & CGST Rule 2017.

3. *Brief facts of the case:*

- a. Godrej Consumer products Ltd, Village Katha, Tehsil Nalagarh, District Solan, Himachal Pradesh, is engaged in the manufacture and sale of various personal care and home insecticide products and duly registered with GST Department of H.P. having GSTIN No. 02AABCG3365J3ZS and paying applicable taxes under GST Act 2017.
- b. In the present case Appellant had placed a purchase order for one of raw materials called Joss powder (HSN:12119029) to M/s. Godrej consumer Products Limited, RS NO. 74/4 & 74/6, Nallur Village Mannadipet commune Puducherry-605107 (GSTN34AABCG3365J1ZN) and the supplier had issued invoice No. PY0322001529 dated 07-09-2018 for the said material indicating therein details of goods and the taxable value of the goods to the tune of Rs. 15,47,967 on which Integrated Goods and Service Tax @ 5% has been charged to the tune of Rs. 77,398/-. Further supplier had handed over said goods to Transporter for transporting the same from Puducherry to Himachal Pradesh by truck no. TN29BV9831. The supplier also generated-way Bill No. PY0322001529 from online portal on 07-09-2018 at 5:29 PM and provided the same to supplier for transportation of goods.
- c. When the said consignment was entered into Kotla, Barotiwala on 15th Sept 2018 at 10:50am, the inspection team intercepted and detained the vehicle by alleging that, the aforementioned consignment was accompanied with expired e-way Bill which is contravention of Rule 138 of CGST and HPGST Rules 2017, hence attracts penal action u/s 129 (1) of Acts. Subsequently the Ld. ACST&E has passed detention order on the same day i.e. 15-09-2018 in the FORM MOV-6 u/s 129 of IGST Act 2017. By which he has been seized the goods along with vehicle.
- d. In pursuance to detention/seizer order, the appellant has been served a Notice in the FORM MOV-7 by the Id. ACST&E u/s 129 (1) of HPGST and CGST Act, 2017/u/s 20 of IGST Act 2017 directing the Appellant to appear before authority on 17-9-2018 and explain as to why the tax and equivalent amount of penalty may not be imposed u/s 20 of IGST read with section 129 of the Act 2017 on the consignment involved contravention of the rule 138 of the CGST and HPGT Rules 2017.
- e. The appellant representative attended in person on 19-09-2018 before the authority and explained that, the consignment was accompanied with proper invoices along with e-way bill, however due to typographical error while generating the E-way bill, it had mentioned approx. distance 20KM instead of 2000 KM, as a result, the validity of e-way bill are perfectly correct and consistent with the invoice and the consignment. However, "Ld AC" has not appreciated the facts and circumstance evidence produced by the appellant and initiated proceeding towards proposing the demand along with penalty.

- f. It is pertinent to note here that no dispute has been raised with regard to quantity of the goods, tax invoice, E-way bill issued by the supplier which is legally required to be carried along with the truck. Further e-way bill contained all the required information in PART-A as well as PART-B as prescribed under e-way bill rules. The said facts were admitted by the Cd. AC when the vehicle has been intercepted and seizure order has been passed. Further Ld. AC also noticed that it was a typographical error by the appellant before authority during the hearing is enclosed herewith, however, Ed. AC has not perused and considered these facts while passing the order dated 24-09-2018(hereinafter referred as to "impugned order" and confirmed the tax demand and penalty to release the goods.
- g. The appellant has no other option, in order to release the consignment, the Appellant has deposited IGST of INR 77,399/- and penalty of INR 77,399/- (total of INR. 1,54,798/-) vide challan No. CPIN 18090200019788 dated 19-09-2018 under protest and got the goods released from the department on 20-09-2018.
- h. Being aggrieved by the impugned order, the appellant is constrained to file the present appeal before your goodself for fair and equitable justice. However since the Appellate Authority was constituted, the Appellant had approached Hon'ble High Court of HP by way of filing writ petition. The Hon'ble High Court has directed to file an appeal before the Appellate Authority within one month from the date of order 31-12-2018 since the Appellate authority has now been constituted.
- i. The appellant is of the view that the impugned order is unlawful and requires to be set aside on the grounds as elaborated in the following grounds of appeal:

Grounds of appeal:

12.1 At outset Appellant submitted that the impugned order passed by the Ld. AC is illegal and not sustainable. The Ld. AC failed to appreciate the facts, legal provisions and judicial precedents applicable in the present case. Hence impugned order is liable to be set aside and consequent relief ought to be granted to the Appellant. In support the contentions, the Appellant would like to make the following submissions which are without prejudice to and independent of each other.

The Impugned Order is perverse

12.2 The Appellant submitted that the impugned order passed by the Ld. AC is perverse as the appellant has not violated the provision of the Rule 138 of the CGST/HPGST Rule 2017 as alleged in the impugned order. Further, the error which was observed by the inspection team during the inspection is merely a typographical error which was unintentional. The appellant had followed the prescribed procedure of generation of E-way bill as per the provisions, therefore, imposition of penalty in the exercise of powers under section 129 of CGST act is illegal and not sustainable before law. Hence, the impugned order is liable to be set aside.

Invocation of section 129 of gst 2017 is not warranted for the present case.

12.3 As per Section 129 of CGST Act, 2017, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made there under, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure, further said section has

been prescribed the procedure and manner for the proceeding in case of certain defaults under the law. The relevant provision of the section is reproduced below.

Legal Provision

129(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made there under, all such goods and conveyance used as a means Of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,-

- (a) on payment of the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent of the value of goods or twenty five thousand rupees. whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;
- (b) on payment of the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty; and
- (c) Upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:

Provided that no such goods or conveyance Shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

(2) The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyance.

(3) the proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).

(4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.

(5) On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in subsection (3) shall be deemed to be concluded.

(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within 1"fourteen days" of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.

12.4 that procedure for E-way bill has been prescribed under Rules 138 to 138D of the CGST Rules, 2017. As per the said provisions, every registered person who causes movement of goods of consignment should follow below procedures before and during the commencement of the goods transport.

- I. In case of transportation of goods by road, an e-way bill is required to be generated before the commencement of movement of the consignment. Furnish information relating to the goods as specified in Part A of FORM GST EWB-01, electronically on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal;
- II. the person in charge of a conveyance carrying any consignment of goods of value exceeding Rs. 50,000/- should carry a copy of documents viz invoice or bill of supply or delivery challan, as the case may be; and in case of transportation of goods by road, he shall also carry a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a radio Frequency Identification device embedded on to the conveyance in such manner as may be notified by the Commissioner.
- III. The e-waybill shall not be valid for movement of goods by road unless the information in Part-B of FORM GST EWB-01 has been furnished except in the case of movements covered under the third. proviso to sub-rule (3) and the proviso to sub-rule (5),
- IV. where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within twenty four hours of generation of the e-way bill: Provided that an e-way bill cannot be canceled if it has been verified in transit in accordance with the provisions of rule 138B: provided further that the unique number generated under sub-rule (1) shall be valid for a period of fifteen days for updation of Part B of FORM GST EWB-01.

In case any person does not carry the above mentioned documents or not followed the procedure prescribed under e-way bill rules, a contravention of the provisions of the law would be considered to take place and the provisions of section 129 of the CGST/HPGST Act are invocable, However, in the instant case, the procedure for E-way bill is duly complied by the Appellant and all the specified documents including E-way bill were accompanied with the Truck and the same was endorsed by the inspection authority when they inspected the documents. Hence demanding tax and penalty through impugned order is nothing but clearly an abuse of process of law.

12.5 that the appellant has duly complied the procedure specified in the Rule 138 of the CGST and HPGST of rule 2017. The appellant had generated E-way bill through online portal before the commencement of goods transport and mentioned all the essential information as required to the procedure for E-way bill. The person who was in charge of conveyance of the consignment had carried all the prescribed set of documents and produced the same before the inspection authority when they sought for the inspection. It is abundantly clear that, the appellant has followed the procedure absolutely and is not contravention of the Rule 138 of the CGST and HPGST of the Rule 2017 as alleged in the impugned order hence invoking the Section 129 of CGST/HPGST is not sustainable.

12.6 However, the appellant has admitted that, a typographical error had taken place while generating the E-way bill, and as a result of which the distance between locations from Puducherry to Himachal Pradesh had mentioned approx. distance 20 KM of 2000 KM. As a result of the said error, the validity of e-way bill was set for only one day and subsequently it got expired on 08-09-2018 although all other details mentioned in the e-way bill are correct and consistent with the invoice and the consignment. However, "Ld.AC" has not appreciated facts and circumstance evidence produced by the appellant and passed the impugned order.

12.7 that the said typographical error was noticed by the Appellant when intercepted and inspected the documents. It was not possible to the Appellant to rectify the error at that point in time as the time limit for rectification had lapsed. Therefore, Appellant humbly submits that, it is inconsequential error on the part of the Appellant and which is squarely covered by the below said exemption circular.

12.8 The appellant submitted that once the E-way bill is produced and other documents clearly indicate that the genuineness of the transaction there remains no justification for imposing the tax and penalty by way of passing the impugned order under section 129. The Appellant places reliance on the decision in the case of *Indus Towers Ltd. v. Asst. State Tax Officer* [2018] 90 taxmann.com 417/66 GST 364 (Ker.) wherein the Kerala High Court held that the power of detention contemplated u/s 129 of the CGST and SGST Acts can be exercised only in respect of goods which are liable to be confiscated under section 130 of the CGST and which are liable to be confiscated u/s 130 of the CGST and SGST Acts. The relevant extract of the said decision is read as under:

"A combined reading of Section 129 and 130, especially the provision contained in sub-section (6) of Section 129 indicates that the detention of the goods is contemplated under the statutes only when it is suspected that the goods are liable to confiscation. This aspect is seen clarified by the Central Board of Excise & Customs in FAQs published by them on 31-03-2017 also, Section 130 dealing with the confiscation of goods indicates beyond doubt that the confiscation of goods is contemplated under the statutes only when a taxable supply is made otherwise than in accordance with the provision contained in statutes and rules made there under with the intent to evade payment of tax. If that be so, mere infraction of the procedural Rules like rules 55 and 138 of the State GST Rules can not result in detention of goods, though they may result in imposition of penalty. In other words, detention of goods merely for infraction of the procedural Rules in transactions which do not amount to taxable supply is without jurisdiction."

That the present case is squarely covered by the circular no. 64/38/2018 dated 14TH sep 2018.

12.9 The appellant invited attention to the Circular 64/38/2018-GST dated 14th Sept 2018. Issued by CBEC wherein it has been clarified that in case a consignment of goods is accompanied with an invoice or any other specified document and also on e-way bill, proceedings under section 129 of CGST Act may not be initiated. The relevant para is reproduced below.

"Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way-bill proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:

- (a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;
- (b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;
- (c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
- (d) Error in one or two digits of the document number mentioned in the e-way bill
- (e) Error in 4 or 6-digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;
- (f) Error in one or two digits/characters of the vehicle number"

Our present case is squarely covered by the aforesaid Circular, The Appellant's truck was carrying all the legal documents including e-way bill, and said E-way bill duly contained all the information which

was ought to be filled under Rule 138 of CGST/HPGST Rule 2017 however due to typographical error, the approx. distance was mentioned 20 KM instead of 2000 KM., Owing to said error the validity of E-way bill got generated for only one day and expired before reaching the destination. Relevant to mention even at the sake of repetition that al/other details mentioned in the invoice are consistent with the invoice and the consignment. Accordingly, the impugned order has overlooked the said circular and imposed tax and penalty illegally.

12.10 that the Appellant has placed reliance on the decision in case of *Sabitha Riyaz v. The Union of India* (WP (C) 34874 OF 2018) = 2018 (11) TMI 213 - KERALA HIGH COURT Wherein Hon'ble Kerala High Court directed the State GST officials to consider release of goods in view of the CBIC Circular No. 64/38/2018-GST, dated 14th Sep 2018 since the discrepancy in the E-way Bill was due to a typographical error. The operative portion of the said decision is reproduced below.

"I reckon the distance between Kerala and Uttarakhand is a matter of record and thus verifiable. As/have already noted, the e-way bill showed the distance as 280 kms, instead of 2800 kms-one zero missing. This cannot be anything other than a typographical error, and a minor at that.

Under these circumstances, I hold that the 11th respondent will consider the petitioner's request for release in terms of the circular, expeditiously. With these observations, I dispose of the writ petition."

In light of the above, the above decision is squarely applicable in the present case, because the error committed by the Appellant in the present case is exactly similar to that of the above mentioned case. In the abovementioned case, the Hon'ble High Court held in the favour of Assessee while observing that 'if the error in E-way bill is minor apart from being typographical, then it stands covered and exempted under the Circular No. 64/38/2018-GST, dated 14th Sept. 2018'. Given these facts and legal findings, the appellant submitted that present impugned order is not maintainable and should be set aside and the appellant should get relief from the demand and penalty imposed by Ld. AC through impugned order dated 24-9-2019.

That the appellant respectfully prayed that the Hon'ble Addl. Commissioner (Appeals), may be pleased to set aside the impugned order and grant consequential relief to the appellant and any other just and equitable relief may please be granted in favour of the Appellant.

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In the reply of the above grounds of appeal, the respondent department has submitted following points:-

Reply to Pt. No. 12.1: Para is denied, the Ld. AC-cum-Proper Officer passed the order according to the rule 138 of CGST/HPGST Rule, 2017 read with section 129 of CGST/HPGST Act and section 20 of IGST Act, 2017. The order passed by the Ld. AC is legal and genuine, issued after given proper opportunity of being heard to Appellant.

Reply of Pt. No-12-2: The Appellant has violated the provision of Rule 138 of CGST/HPGST in which an invalid e-way bill had produced in transit by the person-in-charge of the vehicle which had expired on 08-09-2018. The Ld. AC has imposed penalty under the provision of section 129 that is lawful and sustainable.

Reply to Point N. 12.3: The order passed by the ld. AC are crystal clear in the provocation of section 129 (1) (a) of CGST/HPGST Act, 2017 and section 20 of/GST Act, 2017 read with rule 138 of CGST/HPGST Rule, 2017.

Reply to Pt. No. 12.4: The Ld. AC has procured all the provision prescribed under rules 138 to 138D of CGST/SGST Rule, 2017. There is nothing to avoid the provisions of enactment and rules in the order

passed by the [d. AC-cum proper officer.

Reply to Pt. No. 12.5: No comments.

Reply to Pt. No. 12.6: The appellant had correctly entered at/the information in Part-A by the Consignor and part-B by the transporter of GST EWB-01 doted 07-09-2018 at 05:29 PM in e-way bill bearing No. 551053261727 and the validity had given only for 1 day, it is the mistake of supplier and transporter. Subsequently e-way bill electronically but consignor, consignee and transporter failed to do so. It is mentioned here that the validity period of e-way bill either four hours before expiry or after four of expiry of e-way bill according to the notification no EXN-F (10)-14/2018 Dated: Shimla 22nd March, 2018. However despite having sufficient time neither the taxable person not transporter did not do anything to extent the validity of the said e-way bill. Additionally in the course of inspection in transit, the person-in-charge of the vehicle produced expired e-way bill. For disposal of the case, the representative of the firm admitted itself that it is procedural lapse, the taxable person and transporter could not revalidate the validity e-way bill. Hence it is the violation of Rule 138 of CGST/HPGST rule, 2017 and section 129 of HPGT/CGST Act, 2017 and section 20 of IGST Act, 2017. Hence the penal action has been taken correct and as per law.

Reply to Pt. No. 12.7: Mentioned in earlier comments.

Reply to Pt. No. 12.8: The vehicle along with goods were detained as per the provision of section 129 of HPGST/CGST & section 20 of IGST Act, 2017 and Rule 138 of CGST/HPGST Rules, 2017. After detention, the recipient appeared for disposal of the said case, the same has been disposed of with realization of tax and penalty under section 129 (1) (a) of CGST/HPGST Act, 2017.

Reply to Pt. No. 12.9: The circular 64/38/2018-GST Dated 14-09-2018 issued by CBEC clarified the minor mistakes to excuse in the e-way bill those are mentioned below:-

- (a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;
- (b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;
- (c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
- (d) Error in one or two digits of the document number mentioned in the e-way bill
- (e) Error in 4 or 6-digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;
- (f) Error in one or two digits/characters of the vehicle number

The applicant mention that the case squarely covered by aforesaid circular but as per plain reading of the circular, there is inference of distance in kilometers can be taken as minor mistake. GST EWB-01 produced in transit by the person-in-charge of the vehicle pertaining to the consignment at time of interception on dated 15-09-2018 at 10:50 am had been expired and caused the violation of Rule 138 and Section 129 of CGST/SGST Act, 2017. This error also admitted by the representative of the taxable person and deposited the due tax and penalty under 129 (1) (a) voluntarily.

Reply to Pt. No. 12.10: That the said case was related to distance from Kerala to Uttarakhand, not related to this case. In this case the petitioner, a trader, transported natural rubber. After generating e-way bill, she sent a consignment to Uttarakhand, with all the relevant records. But it was seized by the State Tax Officer, Uttarakhand, the additional 11th respondent. The ground for detention is that in the e-way bill

the distance between Kerala and the destination at Uttarakhand was shown as 280 Kms, instead of 2800 Kms. To have this evident error corrected, the petitioner could have taken recourse to Rule 138 (9) of the CGST Rules. That correction, however, could be possible only within 24 hours.

That the said case is not related to present case. The present case is related to the expiry of the e-way bill which was produced by the person-in-charge of the vehicle during inspection of the consignment. It is crystal clear the violation of rule 138 of CGST/HPGST Rule, 2017 and section 129 of CGST/HPGST Act, 2017 and section 20 of Act, 2017.

That in view of these facts, the appeal of the taxable person is liable to be rejected.

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4. I have heard both the parties and also have perused the record available of the case and it is revealed that due to a typographic error while generating E-way bill, the petitioner mentioned approx distance between Puducherry to Himachal Pradesh as 20 Kilometers instead of 2000 Kilometers. As a result, a validity of one day has been calculated by the E-way bill portal instead of twenty days and the E-way bill subsequently got expired on the very next day *i.e* on 08-9-2018. The consignment was intercepted on dated 15th Sep, 2018 and thereby a tax/penalty has been imposed under section 129 of HPGST/CGST Act, 2019 for contravention of Rule 138.

5. The petitioner has placed reliance on the judgment of Kerala High Court dated 31st October, 2019 in *Sabitha Riyaz v. UOI* [2018] 100 taxmann.com 23 (Ker.) wherein Hon'ble Kerala High Court directed the State GST officials to consider release of goods in view of the CBIC Circular No. 64/38/2018-GST, dated 14th sep 2018 since the discrepancy in the E-way Bill was due to a typographical error. The operative portion of the said decision is reproduced below.

"I reckon the distance between Kerala and Uttarakhand is a matter of record and thus verifiable. As I have already noted, the e-way bill showed the distance as 280kms, instead of 2800kms one zero missing. This cannot be anything other than a typographical error, and a minor at that.

Under these circumstances, I hold that the 11th respondent will consider the petitioner's request for release in terms of the circular, expeditiously With these observations, dispose of the writ petition."

6. GST Council vide circular No 64/38/2018 dated 14th September, 2018 and State government vide circular No DT 13-3-2019 effective w.e.f 14-9-2018, in para 5 provides that in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated in case of minor mistakes like Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill or Error in the address of the consignee to the extent that the locality and other details of the consignee are correct. Further Para 6 of the said circular states that in case of minor errors mentioned in Para 5, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs. 1000/- under the IGST Act) in FORM GST DRC-07 for every consignment.

7. As per the circumstantial evidence and as per the decision of Hon'ble Kerala High Court, it appears that the mistake in entering distance in E-way bill is a typographic error and may be treated as a minor one. Therefore, the appeal of the appellant is accepted and the order of the Assistant Commissioner State Taxes & Excise-Cum proper officer Baddi Circle-II is set aside. The additional demand of Rs. 1,54,798/- (IGST-77,399/- + penalty INR 77,399/-) deposited by the appellant may be refunded and the penalty of Rs. 500/- under SGST and Rs. 500/- under CGST u/s 125 of CGST/HPGST Act, 2017 is imposed on the Appellant in accordance to CBIC Circular No. 64/38/2018-GST, dated 14th sep 2018 and the State Circular no. 12-25/2018-19-EXN-dated 13th March 2019. The judgment in this case was

reserved on 04-01-2020 and is released today.

Parties be informed accordingly.

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