



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 25th OF JULY, 2025

WRIT PETITION No. 20797 of 2022

***MANISH PACKAGING PRIVATE LIMITED THROUGH DIRECTOR
MANISH KANAIYALAL PATEL***

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

*Shri S Suriyanarayanan Iyer, learned counsel (through VC) with
Shri Yatish Kumar Laad - Advocate for the petitioner.
Shri Anand Soni – Additional Advocate General for the
respondent/State.*

ORDER

This petition under Article 226 of the Constitution of India has been filed by the petitioner assailing the order dated 30.03.2022 passed in Appeal Case No. 06 of 2022GST by respondent No.2 / the Appellate Authority and Joint Commissioner, State Tax Headquarters, Indore whereby the order dated 17.10.2018 passed by the adjudicating authority has been upheld, affirming the imposition of Integrated Goods and Services Tax (IGST) and penalty of Rs. 7,16,000/- upon the petitioner.

2. Brief facts of the case are as under :

2.1 The petitioner is a company registered under the Companies Act, 1956 and is engaged in the manufacture, sale and export of plastic films

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falling under Chapter 39 of the Custom Tariff which has been adopted for the purposes of GST levy. Petitioner company exported a consignment of PVC film weighing 10539.80 KG to Jaya Packaging Private Limited, Pokhara, Nepal, through Pashupati Road Carrier Private Ltd., New Delhi, under the cover of GST tax invoice No. 1400 dated 08.10.2018 without payment of IGST. The consignment was accompanied with copy of the letter of credit issued by foreign importer and **Part A Slip of E-way bill** generated on 08.10.2018 at 2:48 pm by the petitioner company with a unique no. 641044766352. The vehicle bearing registration No. MP 09 GG 9956 carrying the aforesaid consignment was detained by the respondent No.3/State Tax Officer, Anti-Evasion Branch, Indore at 9:30 AM on 09.10.2018. The driver of the said vehicle carrying the consignment failed to produce **Part B of the E-way bill** therefore, the State Tax Officer prepared form GST MOV-06 serial No. 1624 dated 11.10.2018 and thereafter Notice No. 1625 dated 11.10.2018 was issued. The petitioner produced bond in the form GST MOV-08 and Bank Guarantee of Rs. 7,16,000/- for provisional release of the goods so that the export may proceed.

2.2 The respondent No.3 being dissatisfied with the reply filed by the petitioner passed the order dated 17.10.2018 imposing IGST amount of Rs. 3,58,000/- with equal penalty of Rs. 3,58,000/-. After providing the bond and bank guarantee towards IGST and penalty, the vehicle was released for export. The petitioner filed an appeal before the respondent No. 2 against the order dated 17.10.2018 after making the necessary pre-deposit. The appellate authority heard the matter on merits and vide order dated 30.03.2022 dismissed the appeal filed by the petitioner confirming the order passed by respondent No.3. Hence, the petitioner has approached this Court by way of writ petition challenging the impugned order dated 30.03.2022.



Submissions of the counsel for the petitioner

3. Shri S.S.Iyer, learned counsel appearing for the petitioner, submitted that the petitioner was not required to pay the IGST as the consignment was being exported to Nepal. Hence, the consignment could not have been detained only on the ground of non-availability of Part B of the E-way bill when the consignment was accompanied with tax invoice bearing Letter of Undertaking number, consignment note, letter of credit for the export goods and Part A of the E-way bill generated by the petitioner. Further, the appellate authority has failed to consider the fact that the order dated 17.10.2018 passed by the State Tax Officer was passed without giving an opportunity of hearing to the petitioner and in complete violation of the principles of natural justice.

4. In support of his contention, learned counsel for the petitioner has relied on the case of ***Robbins Tunnelling & Trenchless Technology (India) Pvt. Ltd. vs. State of M.P., 2021 (48) GSTL 337 (MP)***, wherein the Division Bench of this Court has set aside order passed by the respondent as there was no major lapse in the E-Way bill in respect of consignment of the goods. Learned counsel has also placed reliance on the order passed by the Division Bench of this Court in case of ***Daya Shankar Singh vs. State of Madhya Pradesh & Ors., (2022) 65 GSTL 12*** and the order passed by the High Court of Allahabad (Single Bench) in case of ***Bharti Airtel Ltd. vs. State of Uttar Pradesh & Ors., (2023) 71 GSTL 214***. Hence, it is prayed that the petition be allowed, and the impugned order be set aside.

Submissions of counsel for the respondent

5. Shri Anand Soni, learned Additional Advocate General for the respondents/State has argued in support of the impugned order and submitted



that as per the provisions of Rule 138 of the M.P. Goods and Service Tax Rules, 2017 the generation of E-Way bills is a mandatory condition for movement of the goods exceeding Rs. 50,000/- in value. The E-Way bill comprises of two parts: Part A and Part B. While Part A contains the details of the goods and the consignor/consignee, Part B contains the critical information about the vehicle transporting the goods, particularly the vehicle number. In the absence of these crucial details, the E-Way bill is incomplete and invalid. In the present case, the petitioner has generated Part A of the E-Way but failed to generate Part B containing the vehicle details. Hence, the order under Section 129 of the GST Act has rightly been passed and the petition is liable to be dismissed.

Appreciations and Conclusion

6. Section 129 of the Madhya Pradesh Goods and Service Tax Act, 2017 is provides as under :

“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 thereunder, 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 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;

(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 conveyances.

(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 the amount referred to in sub-section (1), all proceedings in respect of the notice specified in sub-section (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 seven 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 the passage of time, the said period of seven days may be reduced by the proper officer."

7. As per sub-section (1) of Section 129, where any person transports any good or store any good while in transit in contravention of this Act and Rules shall be liable to be detained or seized.

8. By way of amendment dated 07.03.2018, Rule 138 was substituted in the M.P. Goods and Service Tax Rules, 2017 which is reproduced below :

"138. Information to be furnished prior to commencement of the movement of goods and generation of e-way bill.-(1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees'

(i) in relation to a supply; or

(ii) for reasons other than supply; or

*(iii) due to inward supply from an unregistered person, shall, before commencement of such movement, furnish information relating to the said 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 :*

*Provided that the transporter, on an authorization received from the registered person, may furnish information 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 :*

*Provided further that where the goods to be transported are supplied through an e-commerce operator or a courier agency, on an authorization received from the consignor, the information in **Part A of FORM GST***



EWB-01 may be furnished by such e-commerce operator or courier agency and a unique number will be generated on the said portal:

Provided also that where goods are sent by a principal located in one State or Union territory to a job worker located in any other State or Union territory, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment:

Provided also that where handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

Explanation 1- For the purposes of this rule, the expression "handicraft goods" has the meaning as assigned to it in notification (Mo. KA.NI.-2-1414/XI-9(15)/17-U.P.Act-1-2017-Order-(48)-2017 dated 27-09-2017 as amended from time to time.

Explanation 2.- For the purposes of this rule, the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

*(2) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way bill in FORM GST EWB-01 electronically on the common portal after furnishing information in **Part B of FORM GST EWB-01**.*

9. As per Rule 138(1), every registered person who causes the movement of goods of consignment value exceeding Rs. 50,000/- shall, before commencement of such movement, furnish information relating to the said goods as specified in Part A of FORM GST EWB-01 electronically on the common portal. The transporter on an authorisation, registered person furnishes such information. As per sub-Rule (2) of Rule 138, where the goods are transported by a registered person as a consignor whether in his own conveyance or a hired one or a public conveyance by road, the said person shall generate the e-way bill in FORM GST WEB-01 electronically on the common portal after furnishing information in Part B of FORM GST EWB-01.

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10. The petitioner has filed a copy of E-Way bill Part A Slip as Annexure P/3 generated on 08.10.2018 which is reproduced below for ready reference :

-E-Way Bill System- **ANNEXURE - P/3**

E - WAY BILL SYSTEM

Part - A Slip

(33)

Unique No.	6410 4476 6352
Entered Date	08/10/2018 02:48 PM
Entered By	24AAB CM501 8Q1Z8 - MANISH PACKAGING PVT LTD
Valid From:	Not Valid for Movement as Part B is not entered [2001Kms]

Part - A

GSTIN of Supplier	24AABCM6018Q1Z8,MANISH PACKAGING PVT LTD,
Place of Dispatch	MAROLI, GUJARAT-396436
GSTIN of Recipient	GSTIN : URP ,JAYA PACKAGING PVT LTD
Place of Delivery	NEPAL, OTHER COUNTRIES-999999
Document No.	1400
Document Date	08/10/2018
Value of Goods	₹ 1918887.1
HSN Code	3920 - PVC FILMS
Reason for Transportation	Outward - Export
Transporter	24AADCP8319H1ZE & PASHUPATI ROAD CARRIER PRIVATE LIMITED

641044766352

11. In the aforesaid slip, it is specifically mentioned that '**Not Valid for Movement as Part B is not entered (2001 km)**'. Therefore, it is clear from the aforesaid slip that in absence of generation of Part B, this Part A of the E-way Bill is also not valid. For movement of 2001 kms of a consignment valued at Rs. 19,18,887.1 it was mandatory for the petitioner to generate Part B of the E-Way bill. Therefore, in order to confirm that the consignment is being exported and reached its destination, the generation of Part B of the E-way bill is not a mere formality but a mandatory condition. Hence, the appellate authority has rightly observed that as per the provisions of Section 68 of the GST Act, 2017 and Rule 138 of the MPGST Rules, 2017 the E-way bill is a statutory document for transportation of the goods and without

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generation of Part B, the E-way bill is not valid. Therefore, there is an admitted violation on the part of the petitioner.

12. In view of the aforesaid facts & circumstances and the provisions of law, we are of the considered opinion that the impugned order dated 30.03.2022 passed by the respondent authority is just and proper and does not warrant any interference by this Court.

The petition, *sans* merit, stands dismissed accordingly. No cost on either side.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

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