

TAX INFO

Dated 25/04/2022

Latest update on GST Law: No seizure of vehicle and goods is allowed if Post facto GST Registration Amendment in the address of the consignee is done, as given in Judgment by Madras High Court.

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Name of Petitioner	Algae Labs Pvt. Ltd.
Name of Respondent	State Tax Officer
Court	Madras High Court
Date of Judgement	04.04.2022
Appeal No.	Writ Petition (MD) No.4958 of 2022

Brief Facts of the Case Law:

The petitioner is a new start-up company and is engaged in research and development on Algae and its utilization. The petitioner placed purchase order on 07.10.2021 for supply of a specialized spray dryer and the parts thereof with M/s.ABV Engineering, Ahmadabad, who had consigned the same along with the invoice bearing No.197/21-22, dated 28.02.2022. The goods also accompanied with E-way Bill. The vehicle along with spray dryer were seized by the Department on the ground that the address of the Consignee mentioned in invoice was not a place mentioned in the GST Registration of the petitioner.

Contention of the Petitioner:

The petitioner has entered into a rental agreement with one of the Directors of the petitioner Company, who is running a Proprietary concern at the said premises called "Tvl. Pinnacle Biosciences" and the above said premise has been taken on rent by the petitioner. Post facto the petitioner has also amended GST Registration by including the above address in the GST Registration. There is no violation of Section 129 of the respective GST enactments as the transportation by the supplier from Gujarat not only accompanied tax invoice, but also E-way Bill.

Contention of the Department:

The registration profile of the petitioner reveals that one Mr. Adhi Visvanathan is the Director of the petitioner concern and also the Proprietor of Tvl. Pinnacle Biosciences. The place of delivery of the consignment is the business place of Tvl. Pinnacle Biosciences, who is also in the same trade and thus, there is an attempt to evade tax. It is further submitted that the attempt was to clear the goods to the said Tvl. Pinnacle Biosciences.

Decision of the Court:

After perusal of Circular No.10/2019 Q1/17253/2019, dated 31.05.2019, as on date the above said address has been included in the petitioner's place of business in the GST Registration is not disputed by the Department also. Thus, there is a post facto inclusion of the address, which was mentioned in the tax invoice raised by the supplier and in the Eway Bill. There is no attempt to of evade tax. Post facto GST Registration was amended and therefore relief was granted. Therefore, the impugned order of demand tax and penalty under Section 129 of the respective GST Acts demanding a sum of Rs.12,46,678/- [Rs.6,23,339+Rs.6,23,339] was quashed off.

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