

Reply against order received regarding Penalty under section 129 of CGST Act

Date:

To

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Respected Sir/Ma'am,

We have received summary order in Form GST DRC-07 dated, with reference no., and noted its contents. In the said summary order, the issue involved was regarding Penalty US 129(a) of State GST Act under which demand is created was mentioned as "Others". The following are the details of demand as mention in DRC-07.

In this regard, we submit our reply as follows –

This is to inform you that ongoods vehicle no: had been seized by Commercial or Tax Department, due to the reason the the consignee had not updated Part-B and the vehicle number was wrongly entered. It led to the issue of notice in Form MOV.07 by the SGST department, with reference no:

Thereafter, the owner of goods came forward to pay the tax and penalty against the notice issued under form MOV - 07. Although it was a minor procedural lapse, yet in the interest of not promulgating litigation, the taxpayer paid the tax and penalty as per the Form-MOV-7. The tax and penalty u/s 129(1)(a) of Central Goods and Service Tax Act, 2017 amounting to Rs. was paid vide the electronic cash ledger. The tax and penalty was also set off through FORM GST DRC-03 dated on with reference no: The copy of DRC 03 is attached herewith, marked as **Annexure-A**.

As per Circular No. 41/15/2018-GST dated on 13.04.2018, where the owner of the goods or any person authorized by him comes forward to make the payment of tax and penalty as applicable under clause (a) of sub-section (1) of section 129 of the CGST Act, Goods shall be released and GST MOV 05 will be issued.

Based on the above mentioned Circular we paid the tax and penalty Rs. through FORM GST DRC 03 and subsequently the department

issued the FORM MOV 05 on with reference no: The copy of MOV 05 is attached herewith, marked as **Annexure-B**.

Now to the utter surprise of the taxpayer, the liability of Rs. again created through Form DRC-07 on the GST portal under the head "Payment towards Demand". The demand is raised for the amount which has already been paid to the Government and is a double jeopardy. We have already deposited the IGST of Rs. and penalty Rs. in electronic cash ledger dated and offset the liability through DRC-03 dated

Fundamental right which is guaranteed under Article 20(2) of Constitution of India incorporates the principles of "autrefois convict" or Double jeopardy which means that person must not be punished twice for the offence. We respectfully submit that the instant Order in Form DRC-07 suffers the defect and is unconstitutional to such extent.

Under these circumstances we pray before you to reverse the demand raised on us in the liability ledger through Form DRC-07 on the GST portal under the head "Payment towards Demand". The copy of liability ledger is attached herewith and is marked as **Annexure C**.

Since, we have already paid tax and penalty of Rs. against the notice under FORM MOV-07 and we had already received Form MOV 05, the liabilities created through DRC-07 in the GST portal are invalid, irregular and results in double jeopardy. We have already set off the liabilities for same matter through DRC-03 as already established in this submission.

It is thus prayed that Your Honor kindly accept our representation on the ground of summary order in FORM DRC 07 and to reverse the demand raised in the liability ledger and drop the issue so that complete justice can be met out to the Taxpayer.

For this act of kindness, your petitioner will be obliged.

Thanking You.
Your Sincerely

For
Signature of Authorized Signatory

Place: