

HC: Penalty Under Section 129 Invalidated for Lack of *Mens Rea* and Technical Lapse

CA Prakash Chandra Jain

P.O. Brajrjnagar
Odisha- 768216
Cell: 94375-41690 / 70087-12242
Email: prakashchjain@yahoo.co.in



REFER THE DECISION OF THE HON'BLE ALLAHABAD HIGH COURT IN THE CASE OF

T.K. Printers v. Additional Commissioner Grade 2 – [2025] 175 taxmann.com 12 (Allahabad)

FACTS:

T.K. Printers, an authorised vendor of BPCL, was transporting **four MPD machines** from Kanpur to Banda for installation.

During transit, the vehicle was **detained by GST authorities** because the **e-way bill wasn't generated**—due to a **technical glitch** at BPCL's office—contrary to legal requirements under **Section 129(1)**.

The petitioner submitted a **show cause response**, explaining the glitch and that there was **no intention to evade tax**.

Nonetheless, the authorities passed a **detention and penalty order under Section 129(3)** on 10 July 2023, without any finding of dishonest intent.

The petitioner approached the **Allahabad High Court** via writ, challenging the order on grounds of **lack of mens rea**, failure to properly consider the explanation, and **principles of natural justice** being violated.

Hon'ble High Court Judgement:

The detention stemmed from a **technical lapse**, not an intention to evade tax.

No findings were recorded to suggest **fraudulent intent** or evasion of GST.

In absence of such intent, **penalty under Section 129** (which hinges on mens rea per Section 130) was **legally untenable**.

Precedents like *Goverdhan Oil* and *Vacmet India Ltd.* reinforce that **technical or minor errors** don't justify such harsh penalty measures unless accompanied by intent.

The petitioner's reply was not given due consideration before passing the order, violating natural justice.