

HC: Excess Stock Found in Survey—Proceedings Must Be Under Sections 73/74, Not Section 130

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

Harilaxmi Alloys Pvt. Ltd. vs. State of U.P. Citation: (2025) 34 Centax 198 (All.)

In *Harilaxmi Alloys Pvt. Ltd. v. State of U.P.* – (2025) 34 Centax 198 (All.), the Allahabad High Court held that mere finding of excess stock during a survey does not automatically amount to an attempt to evade tax so as to attract confiscation proceedings under Section 130 of the CGST/UPGST Act. The correct statutory mechanism in such cases is to determine the tax and penalty liability by initiating proceedings under Sections 73 or 74, as applicable.

The Court observed that confiscation under Section 130 is a drastic power and can be invoked only where there is a clear intent to evade tax or where the goods are transported or stored in contravention of the provisions of the Act with such intent. Merely holding excess stock, without any evidence of clandestine removal or unaccounted sale, cannot be equated with an attempt to evade tax.

Accordingly, the Court quashed the confiscation proceedings and directed the department to proceed, if necessary, under Sections 73 or 74 for assessment of tax on the unaccounted stock.

Held: Proceedings under Sections 73/74 are appropriate when excess stock is found; Section 130 confiscation proceedings are not justified in absence of evidence of evasion intent.

// भगवान महावीर का संदेश //

"जीवो और जीने दो" — यही हो हमारा संकल्प।

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