



Lawgics

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Serial No.: 133
Dt.: 21-07-2023



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Section 129 of CGST Act, 2017

Section 129: Detention, seizure and release of goods and conveyances in transit

Section 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 penalty equal to two 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 penalty;
- (b) on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, 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 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.

Section 129(1)
Interpretation

Release of goods seized or detained

- Detention means keeping or holding back either by force or otherwise;
- Seizure means to take forcible possession of.

The goods, documents and the conveyance detained or seized above shall be released on the payment of the amount specified below:

Quantity of penalty	Situation	
	If owner leads the role	If owner does not lead
In case of taxable goods	Penalty equal to 200% of tax payable	Penalty equal to 50% of value of the goods OR 200% of tax payable, whichever is higher
In case of exempt goods	2% of value of exempted good or Rs. 25,000, whichever is less.	5% of value of exempted goods or Rs. 25,000, whichever is less

Also, such seizure or detention shall be removed upon **furnishing of securities equivalent to an amount payable** as explained in the above table.

Illustration:

Mr. Aman is getting his goods transported which amounts to Rs. 50,00,000 in contravention of provisions of CGST Act, 2017. Aforesaid goods as well as the conveyance is liable for seizure & detention. Further, let us assume goods are taxable @18%, What shall be the penalty leviable under section 129 of the CGST Act in such scenario?

CASE 1: Mr. Aman comes forward to pay penalty:

Applicable taxes in this case	Rs.9,00,000
Penalty equal to 200% of the tax payable on such goods	Rs.18,00,000
The goods shall be released upon payment of the following amount	Rs.18,00,000

CASE 2: Mr. Aman doesn't come forward to pay penalty:

Value of goods	Rs. 50,00,000
Applicable taxes	Rs.9,00,000
Penalty equal to 50% of value of goods (i.e.50% of 50 lacs) OR Penalty equal to 200% of the tax payable on such goods (whichever is higher)	Rs.25,00,000 OR Rs.18,00,000 (whichever is higher)
The goods shall be released upon payment of the following amount	Rs.25,00,000

Small/token
penalty as per
Circular No.
64/38/2018
GST dated
14.09.2019

Penalty in case of inspection of goods in transit and their detention

In cases where the goods which are in transit are not accompanied with supporting documents or some other minor issues are present, then in such cases, provision of Section 129 shall not be invoked as provided in Circular no. 64/38/2018-GST dated 14.09.2019. Such mistakes could be:

- ❖ Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;
- ❖ Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;
- ❖ Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;
- ❖ Error in one or two digits of the documents number mentioned in the w-way bill;
- ❖ Error in 4 or 6 digit level of HSN where the first 2 digit of HSN are correct and the rate of tax mentioned is correct;
- ❖ Error in one or two digits/ characters of the vehicle number.

In case of the above mistakes, penalty to the tune of Rs.500/- each under section 125 of the CGST Act and the respective States GST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment.

Section 129(2) Omitted w.e.f. 01-01-2022 vide Notification No. 39/2021-CT, dated 21-12-2021.

Section 129(2)
Interpretation

Release of seized goods on provisional basis

This provision was omitted w.e.f. 01-01-2022 vide Notification No. 39/2021-CT, dt. 21-12-2021.

Section 129(3)

The proper officer detaining or seizing goods or conveyances shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).

Section 129(4)

No penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.

Section 129(3) & 129(4) Interpretation	<p><u>Issue of Notice for granting Opportunity of being heard & thereafter issuance of order</u></p> <p>The proper officer detaining and seizing the goods and/ or conveyance has to provide proper opportunity of being heard to the transporter or such other person to explain his case by issuing a show cause notice to him within 7 days of such detention or seizure specifying the penalty payable. After hearing the transporter or such other person, the officer shall pass an appropriate order within 7 days from the date of service of notice.</p> <p>The penalty shall be determined only after giving the person concerned an opportunity of being heard.</p>
Section 129(5)	On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.
Section 129(5) Interpretation	<p><u>Conclusion of proceedings</u></p> <p>The proper officer shall release the goods upon the payment of penalty or upon furnishing a security equivalent of the penalty payable and all the proceedings under this particular section shall be deemed to be concluded.</p>
Section 129(6)	<p>Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):</p> <p>Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:</p> <p>Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.</p>
Section 129(6) Interpretation	<p><u>Time limit for payment</u></p> <p>If the person (either transporter or owner of the goods) fails to discharge the amount of penalty under this section within 15 days from the date of receipt of the copy of the order, then the goods and/ or conveyance shall be liable to be sold or disposed of otherwise to recover the penalty payable. The period of 15 days may be reduced by proper officer if goods are of perishable or hazardous nature.</p> <p>However, the conveyance shall be released to the transporter on payment of:</p> <ul style="list-style-type: none"> • Penalty payable, or • Rs. 1,00,000/-, <p>whichever is less</p>

Important Note under Section 129:

Penalty under section 129 is an '**penalty in action**', that is, penalty cannot be imposed after completion of movement in case **goods are NOT intercepted during movement** and found to be deficient on the prescribed documents. If subsequent evidence is collected that clearly proves that goods have been moved without issuing proper E-WayBill, even then penalty under section 129 CANNOT be imposed if such investigation is conducted after movement has ended.

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