



Lawgics

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Serial No.: 139
Dt.: 31-07-2023



Section 136 of CGST Act, 2017

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136. Relevancy of statements under certain circumstances.

A statement made and signed by a person on appearance in response to any summons issued under section 70 during the course of any inquiry or proceedings under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,—

- (a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or
- (b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

Our Interpretation

Section 136

This provision deals with relevancy of statements recorded during investigation proceedings.

The statement may be treated relevant and may be admitted in evidence, in the interest of justice, if;

1. the person who made the statement is dead,
2. cannot be found,
3. is incapable of giving evidence,
4. is kept out of the way by the adverse party,
5. whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable

If the above circumstances do not exist, then before the statement is treated relevant and admissible under the law, it is necessary that the maker of the statement is not only required to be present in the proceedings before the adjudicating authority, but the court is also obliged under the law to examine him and the court has to form an opinion that having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

Section 136(a) deals with five circumstances which are given therein and if these circumstances exist, then the **'such statement'** shall be **relevant**, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains.

Section 136(b) provides that **'such statement'** shall be relevant, **only when the person, who made the statement is examined as witness before the Court** and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.