CGHC010433702024 2026:CGHC:47506

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 213 of 2024

Order Reserved on : 29.09.2026

Order Delivered on : 18.11.2026

- M/s Sawariya Traders (A Proprietorship Firm), Having Its Office At Nandura, Sindi Colony, Near Gurudwara, Nandura, Buldana, Maharashtra, Pin 443404, Through Its Sole Proprietor Namely Rahul Manojkumar Ramchandani, S/o Manojkumar Ramchandani, Aged Around 23 Years, R/o Athawadi Bazar Road, Ward No. 3, Nandura, Maharashtra, Pin 443404.

--- Petitioner(s)

versus

1 - State Of Chhattisgarh State Tax Officer, Chhattisgarh State Tax, Raipur Division, Circle-5, Raipur (C.G.)

2 - The Commissioner, Chhattisgarh State Tax, Raipur (C.G.)

3 - The State Tax Officer, Chhattisgarh State Tax, Raipur Division, Circle-5, Raipur (C.G.)

4 - Joint Commissioner, C.G. State Tax, Preventive In-Charge Of E-Way Bill, Raipur (C.G.)

5 - The Station House Officer, Police Station-Bemetara, District-Bemetara (C.G.)

6 - Shri Narendra Goswami, State Tax Officer, Chhattisgarh State Tax, Raipur Division, Circle-5, Raipur (C.G.)

--- Respondent(s)

WPT No. 2 of 2025

1 - M/s Sawariya Traders (A Proprietorship Firm) Having Its Office At Nandura, Sindi Colony, Near Gurudwara, Nandura, Buldana, Maharashtra, Pin- 443404, Through Its Sole Proprietor Namely Rahul Manojkumar Ramchandani, Son Of Manojkumar Ramchandani, Aged Around 23 Years, Resident Of Athawadi Bazar Road, Ward No. 3, Nandura, Maharashtra, Pin- 443404.

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Chhattisgarh State Tax (Gst), North Block, Sector-19, Atal Nagar, Naya Raipur, Raipur, Commercial Tax, Raipur (C.G.)

2 - The Commissioner Chhattisgarh State Tax, Raipur (Chhattisgarh)

3 - The Deputy Commissioner Of State Tax Chhattisgarh State Tax, Bilaspur Division-2, Bilaspur (Chhattisgarh)

4 - Joint Commissioner C.G. State Tax, Preventive In-Charge Of E-Way Bill, Raipur (Chhattisgarh)

5 - The Station House Officer Police Station- Mungeli, District- Mungeli, Chhattisgarh

6 - Shri Sumit Kumar Mahobia, Deputy Commissioner Of State Tax Bilaspur Division-2, Bilaspur (Chhattisgarh)

... Respondent(s)

For Petitioner(s)	:	Mr. Hari Agrawal, Advocate
For State	:	Ms. Anuradha Jain, Dy. Govt. Advocate
For R/6 in WPT/2/2025	:	Mr. Vikram Sharma, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas &

(CAV Order)

1. Since, similar set of facts and law are involved, both the writ petitions are heard analogously and are being disposed of by this common order.

2. The petitioner firm has filed these writ petitions under Article 226 of

the Constitution of India assailing detention of vehicles; Trucks bearing Registration Nos. CG-10-AJ-1477 and CG-04-JD-3551 and seizure of goods by the GST Officials on 26.11.2024 without any notice or memo relating to the seizure, and has accordingly, sought release of both the vehicles and goods. The petitioner in WPT No. 2/2025 has also prayed for quashing of the order dated 12.12.2024 (Ex.P/6) passed under Section 129(3) of the CGST Act by respondent No. 3 (Deputy Commissioner State Tax, Bilaspur Division) by which it has calculated the proposed tax and penalty in Form MOV-07 to the tune of 50% of the value of the goods reduced by the Tax amount paid thereon under the Central Goods and Service Tax as well as the State/Union Goods and Service Tax which comes to Rs. 5,07,893.24/- which has already been challenged in WPT No. 213/2024.

3. Brief facts as reflected from the records are that the petitioner firm is engaged in the business of sale and purchase of Iron, Steel and allied products. The petitioner firm sold Iron and Steel amounting to Rs. 5,07,893.2/- and MSTMT Bar amounting to Rs. 17,09,067/- to M/s Kamal Traders, Jabalpur. Invoices to this effect; Invoice No. 14 dated 25.11.2024 and 18 &19 dated 26.11.2024 were issued. The products relating to invoice No. 14 were loaded in Truck No. CG-10-AJ-1477 and invoice Nos. 18 and 19 were loaded in Truck No. CG-04-JD-3551. In invoice No. 14 Integrated GST amount of Rs. 77,475.24/- and in invoice Nos. 18 and 19 Integrated GST amount of Rs. 2,60,705/- was paid. On 26.11.2024 both vehicles were dispatched and on the same date the vehicle No. CG-10-AJ-1477

was intercepted and seized by the Deputy Commissioner of State Tax, Bilaspur and vehicle No. CG-04-JD-3551 was intercepted and seized by the Officer, State Tax, Raipur. On 04.11.2024 (wrongly putting pre-date) the Deputy Commissioner of State Tax, Bilaspur issued notice to the driver of the vehicle No. CG-10-AJ-1477 under Section 129(3) of the GST Act and thereafter passed order of penalty amounting to Rs. 5,07,893.24/- dated 12.12.2024 under Section 129(1)(b) of the GST Act in favour of the said driver.

4. It is a case of the petitioner that the goods were loaded in the aforesaid Trucks but inadvertently the e-way bill could not be generated and pending the generation of e-way bill, the Trucks were driven towards their destination point. Thereafter, on 26.11.2024 the trucks were intercepted and detained in the premises of police stations and goods were seized without any notice or official documents which were required to be affixed to communicate the detention of the vehicles.

5. It is further case of the petitioner that on 29.11.2024 the petitioner approached GST authorities and submitted documents and also assured that they are ready to pay the penalties as provided in Section 129(1)(a) of the GST Act. It is further case of the petitioner that respondent No. 6 Deputy Commissioner of State Tax, Bilaspur acted in violation of the circular dated 31.12.2018 (Annexure P/9) demanded irrelevant documents and respondent No. 3 Deputy Commissioner of State Tax, Bilaspur Division issued notice to the driver of the truck and not in favour of the petitioner’s firm within the mandatory period of 7 days from date of detention, which is

26.11.2024. It is also the case of the petitioner that the petitioner again submitted an application to the authorities showing his willingness to deposit the penalty amount.

6. It has been further contended that petitioner has informed to the authorities that this Court in WPT No. 213/2024 has already directed for the interim custody in favour of the petitioner on certain conditions to submit bank guarantee of Rs. 5,21,410/- in favour of the GST department and also submit a solvent surety/bond of equivalent amount of Rs. 17,09,067/- within three days but the same has been refused by the authorities.

7. In WPT No. 213/2024 the petitioner has claimed non-compliance of statutory procedure of seizure as neither notice as required under Section 129 of the GST Act was issued nor permission for extension beyond the period for 7 days was obtained, as such, the procedure of detention / seizure are illegal and has prayed for quashment of the entire proceedings initiated against them.

8. The State in WPT No. 213/2024 has filed their return denying the allegation made in the writ petition and contended that they have followed the procedure as per Section 129 of the CGST Act, 2017. It has also been contended that as per Section 10(1)(b) of IGST Act, 2017 it is mandatory for the petitioner to have bill to ship which the driver fails to produce when it was demanded. So far as, other contentions, it has been submitted that when the vehicle was intercepted by the authorities, the authorities have served MOV01, MOV-02, MOV-04, MOV-06 and thereafter, MOV-07 was affixed on the vehicle and panchanama was prepared on 04.12.2024. It has

also been contended that the demand order MOV-09 was also passed and served to the driver on 11.12.2024 and affixed on the vehicle. Thereafter, panchnama was duly prepared. Thus, it has been contended that the procedure prescribed under the Act and Rule made therein have been duly complied with and have prayed for dismissal of the writ petition.

9. The State in WPT No. 2/2025 has filed their return denying the allegation made in the writ petition, reiterated the same facts and also referred to the circular dated 13.04.2018 which provides physical verification/inspection of the goods and documents during movement of the goods, and contended that within 7 days from the date of issuance of order in MOV-07 was issued on 04.12.2024 and thereafter well within 7 days MOV-09 was issued on 12.12.2024 to the driver of the vehicle, as such they have followed the procedure as per Section 129 of the CGST Act, 2017 as well as the circular dated 13.04.2018.

10. Respondent No. 6 in WPT No. 213/2024 has filed return contending that he has followed the due process of law as laid down under Section 129 of the CGST Act, 2017 and Rule made therein and also annexed the list of authorities who are competent to call for the records as per Section 68 of the CGST Act and 138 of the Rules made therein for interception and seizure of the vehicles and goods, and has contended that he has discharged his official duties in accordance with law.

11. Learned counsel for the petitioner would submit that the State GST authorities without following the statutory procedure of issuance of

notice and without passing an order of detention have detained the vehicles and seized the goods belonging to them since 26.11.2024 and kept the same in the police station premises, thus, the action of respondent authorities without complying mandatory statutory provisions is illegal, arbitrary and abuse of powers and also gross violation of the principles of natural justice. He would further submit that Section 129 (3) of the GST Act provides issuance of notice within 7 days of detention/seizure whereas the respondents authorities have failed to issue notice within the prescribed time limit, and even till today, they have not issued or uploaded any statutory forms (viz GST MOV-02, Part A of GST EWB-03) related to seizure and detention in the GST Portal. The respondent authorities have also failed to adhere to the Circular dated 13.04.2018, therefore, the entire action of detention and seizure is bad in law and would pray for setting aside the same. To substantiate his submission, he would refer to judgment of the Hon'ble High Court of Madras in case of **D.K. Enterprises vs. Assistant/Deputy Commissioner {(2022) 107 GSTR 331},** judgments of the Hon'ble Supreme Court in cases of **Chairman, Coal India Ltd. vs. Ananta Saha {(2011) 5 SCC 142}, CIT vs. Anjum M.H. Ghaswala {(2002) 1 SCC 633}, Dharampal Satyapal vs. Dy. Commissioner of Central Excise {(2015) 8 SCC 519}.**

12. On the other hand, learned State counsel would submit that the petitioner is trying to evade tax. The vehicles were rightly intercepted and seized by the proper officers in discharge of official duties following due process as detailed in the return filed by them.

The petitioner is purchaser and seller of the goods, he has purchased the goods from Raipur and sold it, however, he has failed to produce initial bill from the original manufacturer. As such, in absence of original purchase bill, he could not be established to be an owner.

13. Further, as per Section 68 of the GST Act, for the movement of goods of consignment exceeding Rs. 50,000/-, it is necessary to furnish information in Part A of the EWB-01 electronically on common portal but the driver of the vehicle has failed to produce any such E-way bill, therefore, the vehicles have been rightly detained with goods. The vehicles were seized on 26.11.2024 and the driver of vehicle No. CG-10-AJ-1477 as well as vehicle No. CG-04-JD-3551 were issued order of detention on 28.11.2024 and later, on 04.12.2024 show case notice was issued to the driver of the vehicles in both the cases, as such Section 129 of the Act has been duly complied with and would pray for dismissal of both the writ petitions.

14. Learned counsel for respondent No. 6 in WPT No. 2/2025 supporting the submission of the learned State counsel would submit that since the order dated 12.12.2024 has not been issued against the petitioner therefore, he is not entitled to file the instant petitions. The driver of the vehicle was transporting the goods without E-way bill and also there was difference in the invoices, the vehicle was intercepted at Mungeli whereas the Mungeli does not fall within the route from Raipur to Pathariya, as such, it appears to be a case of systemic tax evasion. The petitioner has failed to

produce documents with regard to purchase of the goods therefore, he cannot be termed as an owner of the vehicle and goods. As such, in absence of proper invoice, E-way bill and other documents, issuance of notice under Section 129(3), demand as per Section 129(1)(b) of the Act is completely justified and since the petitioner is not proved to be owner of the vehicle/goods, the compliance of Section 129(1)(a) of the Act does not arise at all, therefore, he would pray for dismissal of the writ petitions.

15. I have heard learned counsel for the parties and perused the record.

16. From the submissions made by the parties, the point emerged for determination of this Court is

'Whether the GST Authorities have followed the procedure while conducting inspection of the goods in movement as per Section 68 of the CGST Act, thereafter, detention and seizure of the vehicle/goods as per Section 129 of the GST Act, 2017, the Rules made therein and also followed the circular dated 13.04.2018 No. 41/15/2018-GST issued by the Ministry of Finance, Government of India or not?'

17. To appreciate the point of determination, it is expedient for this Court to extract Sections 68, 129 of the Act and 138 Rule made therein and relevant paragraph of the Circular dated 13.04.2018 which are as follows :-

Section 68. Inspection of goods in movement.-

(1) The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

(2) The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.

(3) Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

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

(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.

(3) The proper officer detaining or seizing goods or conveyance 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).]

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

(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.

(6) 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):

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:

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.]

Rule 138. Information to be furnished prior to commencement of movement of goods and generation of e-way bill. -

(1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees-

(i) in relation to a supply; or

(ii) for reasons other than supply; or

(iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods as specified in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required at the common portal and a unique number will be generated on the said portal:

Provided that where goods are sent by a principal located in one State to a job worker located in any other

State, the e-way bill shall be generated by the principal irrespective of the value of the consignment:

Provided further that where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

(2) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his

own conveyance or a hired one or by railways or by air or by vessel, the said person or the recipient may generate the e-way bill in FORM GST EWB-01 electronically on the common portal after furnishing information in Part B of FORM GST EWB-01:

Provided that where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall furnish, on the common portal, the-

(a) information in Part B of FORM GST EWB-01; and

(b) the serial number and date of the Railway Receipt or the Air Consignment Note or Bill of Lading, as the case may be.

(3) Where the e-way bill is not generated under sub-rule (2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A of FORM GST EWB-01:

Provided that the registered person or, the transporter, as the case may be may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees:

Provided further that where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in FORM GST EWB-01 on the common portal in the manner specified in this rule:

Provided also that where the goods are transported for a distance of less than ten kilometers within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the recipient, or as the case maybe, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.

Explanation 1.– For the purposes of this sub-rule, where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.

Explanation 2.- The e-way bill shall not be valid for movement of goods by road unless the information in Part-B of FORM GST EWB-01 has been furnished except in the case of movements covered under the third proviso to sub-rule (3) and the proviso to sub-rule (5).

(4) Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.

(5) Where the goods are transferred from one conveyance to another, the consigner or the recipient, who has provided information in Part- A of the FORM GST EWB-01, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in FORM GST EWB-01:

Provided that where the goods are transported for a distance of less than ten kilometers within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of conveyance may not be updated in the e-way bill.

(5A) The consignor or the recipient, who has furnished the information in Part-A of FORM GST EWB-01, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in Part-B of FORM GST EWB-01 for further movement of consignment:

Provided that once the details of the conveyance have been updated by the transporter in Part B of FORM GST EWB-01, the consignor or recipient, as the case maybe, who has furnished the information in Part-A of FORM GST EWB-01 shall not be allowed to assign the e-way bill number to another transporter.

(6) After e-way bill has been generated in accordance with the provisions of sub-rule (1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in FORM GST EWB-02 maybe generated by him on the said common portal prior to the movement of goods.

(7) Where the consignor or the consignee has not generated FORM GST EWB-01 in accordance with the provisions of sub-rule (1) and the value of goods carried in the conveyance is more than fifty thousand rupees, the transporter shall generate FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case maybe, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods:

Provided that where the goods to be transported are supplied through an e-commerce operator, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator.

(8) The information furnished in Part A of FORM GST EWB-01 shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in FORM GSTR-1:

Provided that when the information has been furnished by an unregistered supplier or an unregistered recipient in FORM GST EWB-01, he shall be informed electronically, if the mobile number or the e-mail is available.

(9) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill:

Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B:

Provided further the unique number generated under sub-rule (1) shall be valid for 72 hours for updation of Part B of FORM GST EWB-01.

(10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance, within the country, the goods have to be transported, as mentioned in column (2) of the said Table:-

Sl. No	**Distance**	**Validity period**
(1)	**(2)**	**(3)**
1.	Up to 100 km.	One day
2.	For every 100 km. or part thereof thereafter	One additional day

Provided that the Commissioner may, by notification, extend the validity period of e-way bill for certain categories of goods as may be specified therein:

Provided further that where, under circumstances of an exceptional nature, the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in Part B of FORM GST EWB-01.

Explanation.-For the purposes of this rule, the “relevant date” shall mean the date on which the e-way bill has been generated and the

period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as twenty-four hours.

(11) The details of e-way bill generated under sub-rule (1) shall be made available to the-

(a) supplier, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by therecipient or the transporter; or

(b) recipient, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the supplier or the transporter, on the common portal, and the supplier or the recipient, as the case maybe, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.

(12) Where the person to whom the information specified in sub-rule (11) has been made available does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, it shall be deemed that he has accepted the said details.

(13) The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State shall be valid in every State and Union territory.

(14) Notwithstanding anything contained in this rule, no e-way bill is required to be generated-

(a) where the goods being transported are specified in Annexure;

(b) where the goods are being transported by a non-motorised conveyance;

(c) where the goods are being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;

(d) in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the Goods and Services Tax Rules of the concerned State;

(e) where the goods, other than de-oiled cake, being transported are specified in the Schedule appended to notification No. 2/2017-Central tax (Rate) dated the 28th June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 674 (E) dated the 28th June, 2017 as amended from time to time;

(f) where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high

speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel; and

(g) where the goods being transported are treated as no supply under Schedule III of the Act.

Explanation. - The facility of generation and cancellation of e-way bill may also be made available through SMS.

Clause 2-u of the Circular dated 13.04.2018.

(u) Demand of any tax, penalty, fine or other charges shall be added in the electronic liability ledger of the person concerned. Where no electronic liability ledger is available in case of an unregistered person, a temporary ID shall be created by the proper officer on the common portal and the liability shall be created therein. He shall also credit the payments made towards such demands of tax, penalty or fine and other charges by debiting the electronic cash ledger of the concerned person.

18. From perusal of the Section 129 of the CGST Act, 2017 it is quite vivid that it deals with detention, seizure and provisional release of goods and conveyances in transit when there is a violation of CGST rules. Detention occurs when there are issues such as missing documents, expired e-way bills, or suspected tax evasion. The process involves multiple forms (GST MOV-01 to GST MOV-11) and includes steps like physical verification, the issuance of detention or release orders, and the opportunity for businesses to pay penalties or provide security for provisional release. This Section provides step by step detention procedure which includes order of physical verification, Report of physical verification, detention, demand and confiscation.

19. Form MOV-02 issued as per the Circular deals with Order of physical verification requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the goods. The proper officer

shall, within twenty-four hours of the aforementioned issuance of MOV-02, prepare a report in Part A of EWB-03 and upload the same on the common portal. On completion of the physical verification/ inspection of the conveyance and the goods in movement, the proper officer shall prepare a report of such physical verification in MOV-04 and serve a copy of the said report to the person in charge of the goods and conveyance. The proper officer shall also record, on the common portal, the final report of the inspection in Part B of EWB-03 within three days of such physical verification/ inspection.

20. When the proper officer is of the opinion that the goods and conveyance need to be detained, he shall issue an order of detention in Form MOV-06 and a notice in Form MOV-07 in accordance with the provisions of sub-section (3) of section 129 of the CGST Act, specifying the tax and penalty payable. The said notice shall be served on the person in charge of the conveyance. Thereafter, Order of Demand can be served in MOV-09 to 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, or where the owner of the goods does not come forward to make the payment of tax and penalty as applicable under clause (b) of sub-section (1) of the said section, the proper officer shall, after the amount of tax and penalty has been paid in accordance with the provisions of the CGST Act and the CGST Rules, release the goods and conveyance by an order in Form MOV-05. Where any objections are filed against the proposed amount of tax and penalty payable, the proper

officer shall consider such objections and thereafter, pass a speaking order in Form MOV-09, quantifying the tax and penalty payable. On payment of such tax and penalty, the goods and conveyance shall be released forthwith by an order in MOV-05. Further, the order in MOV-09 shall be uploaded on the common portal and the demand accruing from the proceedings shall be added in the electronic liability register and the payment made shall be credited to such electronic liability register by debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

21. The circular dated 13.04.2018, further provides that an order of confiscation of goods shall be passed in MOV-11, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released. The order in MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act. The order referred to

above i.e., the objections filed by the person in charge of the goods (owner or his representative), and the objections filed by the person in charge of the conveyance, may be passed as a common order in the MOV-11.

22. The circular further provides that Form MOV-02 can be issued to the person-in-charge of the conveyance (such as the driver, owner of the vehicle, or person transporting the goods) under Section 68 of the CGST Act. The circular further provides that in case of an unregistered person the proper officer shall generate a Temporary ID on the GST Portal for issuance of FORM GST MOV-09 or MOV-11 and the same shall be recorded against this Temporary ID, allowing the unregistered person to pay the dues online and secure the release of goods. However, during transit interception, initial forms such as MOV-02 (inspection order), MOV-06 (detention order), and MOV-07 (penalty notice) can be served directly on the person in charge of the conveyance i.e. the driver or transporter on behalf of the owner of the goods. As such, there is no illegality on the part of the respondent authorities to issue inspection order (MOV-02) and Proposed tax and penalty (MOV-07) upon the driver of the vehicles.

23. From the reply submitted by the State, it is reflected that they have followed the steps which are required to be taken during search and seizure like recording of statement (MOV-01), direct service of MOV-02 for physical verification upon the driver of the vehicles, service of Report (MOV-04) directly to the driver of the vehicles, Order of Detention (MOV-06), thereafter, service of notice specifying

the proposed tax and penalty (MOV-07) by affixing the same on the standing vehicles. Thereafter, within further 7 days issuance of order of demand and penalties on 11.12.2024 with regard to vehicle No. CG-04-JD-3551 to the driver of the vehicle due to dispute with regard to the ownership of the goods. These steps have not been disputed by the petitioner and a bald statement was made alleging non-compliance of Section 129 of the Act and the Rules made therein with regard to issuance of MOV-02 which cannot be considered in absence of the foundation laid by the petitioner as burden lies upon the person who alleges non-compliance of mandatory provisions of the Rules/Law.

24. So far as the provisions of Section 129 of the Act and the Rules made therein, there is no dispute about its mandatory nature as held by the Hon'ble Division Bench of the High Court of Allahabad in case of **Shiva Enterprises vs. State of U.P. and Another {2026:AHC:64107:DB}.** The Hon'ble Division Bench in paragraph 46 has issued direction which reads as under :-

> 46. Before we part, we may also note that similar petitions do arise before the Court, time and again. To the extent, the legislative intent to conduct and conclude the proceedings efficiently, exists, we feel there need to issue necessary directions to ensure that the spirit of the amendment made to section 129 of the Act, is given full effect. Consequently, we provide as below:
>
> (i) Wherever goods are intercepted, preliminary inquiry as may be necessary including physical verification etc, may be completed, strictly within timeline indicated by the statute such that show cause notice may be issued within 7 days from interception. To the extent that action is fully ex-parte at the instance of the proper officer, no undue margins may exist for delays.
>
> (ii) Upon issuance of the show cause notice within 7 days from interception, all efforts should be made by the Proper Officer- to conclude the proceedings within 7 days, as strongly recommended by the statute.

(iii) Considering the fact that such proceedings may conclude only after granting opportunity to file objection and of hearing, we consider it appropriate to give a margin of 3 days to the assessee to file his written reply/objection, to such notice.

(iv) Thereafter, the Proper Officer may hear objector/assessee within the next 2 days, and pass appropriate order within 7 days from the date of show cause notice.

(v) Where the objector/assessee may seek time either to file objection etc, or to be heard, that request should be received in writing by the Proper Officer, and specific ordersheet entries should be recorded to allow for minimal reasonable time to such person/s.

(vi) Thereafter, the order should be passed dealing with such objection, at the earliest i.e. within 7 days from issuance of the show cause notice.

(vii) If for reasons of attributable to the objector/assessee or for any other circumstances the statutory timeline recommended is to be breached, the ordersheet and the order to be passed should contain full recital of the reasons- that may have attributed to that delay, either as to issuance of notice or in concluding the proceedings.

(viii) Where delays are caused habitually or regularly, by any Proper Officer, the matter should be taken up by the proper superior authority (of such Proper Officer), suo-moto, for administrative guidance and action, where required.

25. Considering the facts of the present case and also the proposition of law as held by the Hon'ble Division Bench, High Court of Allahabad, I am of the view that the submission made by the learned counsel for the petitioners that there is non-compliance of mandatory provisions of Section 129 of the GST Act and the Rules made therein as well as the Circular dated 13.04.2018 deserves to be rejected and accordingly, the same is rejected.

26. The record of the case further demonstrates that petitioner has submitted an application referring to the interim order passed by this Court claiming that the firm's existence has been recognized by this Court is misconceived and deserves to be rejected as it is well settled position of law that interim order does not decide the lis between the parties finally, as such, the petitioner cannot claim before the authorities that his firm is in existence in view of the

interim order passed by this Court. However, the petitioner is at liberty to move an appropriate application with regard to registration of the firm for payment of penalty as submitted by him on 23.12.2024 (Annexure P/7) in connection with the goods movement in vehicle No. CG-10-AJ-1477 and in turn it is directed that the authorities, without being influenced by the interim order or disposal of batch of these petitions, shall decide the same in accordance with law.

27. With the aforesaid observation and direction, the batch of writ petitions are dismissed. The interim order dated 20.12.2024 passed in WPT No. 213/2024 is vacated.

Sd/-
(Narendra Kumar Vyas)
Judge

KISHORE KUMAR DESHMUKH
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Date: 2026.11.18 18:42:46 +0530
Deshmukh