

08.08.2023.
p.b.
Sl. No.27.

WPA 18420 of 2023

Surya Alloy Industries Ltd. & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Abhratosh Majumder,
Mr. Arijit Chakrabarti,
Mr. Debsoumya Basak,
Mr. Subhas Ch. Jana,
Mr. Viswajit Dasgupta (neogi),
Mr. Dipak Sharma.
.....for the petitioners.

Mr. A. Ray,
Mr. T. M. Siddiqui,
Mr. S. Sanyal.
.....for the State.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the legality of the impugned order of demand/penalty dated 25th July, 2023 being Annexure P-7 to the writ petition, which, according to the petitioner, was passed on hyper-technical ground of non-production of the original delivery challan in question at the time of interception of the vehicle in question. It is the case of the petitioner that nowhere statute requires that the original copy of the delivery challan has to be produced and further that petitioner was ready and willing to produce the original and, in fact, it has produced the original on the next day and yet the goods and vehicle were not released. It is not the case of the respondents that either the photocopy of the delivery challan in question or the original of the same was not authentic or genuine. Maximum the respondent

authorities should have done that it could have refused to release the vehicle and goods in question but immediately on production of the same, the authority concerned should have released on production of original challan. I am of the considered view that even after the production of the original of the delivery challan in question, respondent's action in not accepting the original and detaining the goods in question in such a case is highly hyper-technical.

Considering the facts and circumstances of the case and in view of the discussions made above, the impugned order of penalty is set aside and the respondent authorities concerned shall release the goods and vehicle in question within 48 hours from the date of production of the original delivery challan in question.

It is clarified that this order has been passed for the reason that petitioner was ready and willing to produce the original and, in fact, has produced the original and the authenticity of the same has not been challenged by the authority concerned and as such this order is being passed which shall not be treated as a precedent for the purpose of using only photocopy of the challan at the time of interception in question.

With this observation and direction this writ petition being WPA 18420 of 2023 stands disposed of.

(Md. Nizamuddin, J.)