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WPA 28462 of 2022

Smt. Rekha Nayak
Vs
State of West Bengal & Ors.

Mr. Amales Ray,
Ms. Mousumi Bhowal,
Mr. Aman Gupta,
Mr. Ishan Bhattacharya
… For the Petitioner.
Mr. A. Ray, Ld. GP.,
Mr. T. M. Siddiqui,
Mr. D. Ghosh,
Mr. V. Kothari
… For the State.

Heard learned Advocates appearing for the parties.

Petitioner claiming to be the owner of the goods in question lying on the intercepted vehicle in question, being aggrieved by the action of the Respondent State GST Authority concerned in not releasing the same, has filed this writ petition. It appears from record being Annexure P-7 to the writ petition that the vehicle and goods in question was intercepted by the impugned order dated 7th December, 2022 on the alleged ground of improper/faulty invoice found after verification. It appears from Annexure P-7 to the writ petition that a show-cause notice under Section 129(3) of the WBGST Act was issued on 7th December, 2022. It appears from the said show-cause notice that tax and penalty has already been determined in respect of the driver of the vehicle in question. It appears from record at page 61 of the writ petition that the

Adjudicting Authority itself says that the consignment was being penalized under Section 129 of the CGST and WBGST Act, 2017.

Mr. Ray, learned Advocate appearing for the petitioner in support of his contention, has relied on Section 129(3) of the WBGST/CGST Act, 2017 and submits that the ambit and scope of exercise of power in such cases by the intercepting authority is very limited and contends that the proper officer detaining or seizing goods or conveyances, shall issue a notice specifying the tax and penalty payable and thereafter pass an order for payment of tax and penalty under Clause (a) or Clause (b) or Clause (c) under Section 129(1) of the aforesaid Act. Petitioner has annexed the documents to this writ petition from which it appears that the tax invoice in question is in the name of the petitioner who is the owner and the e-way bill also shows the name of the petitioner as the owner of the goods in question.

Considering the fact and circumstances of the case and documents annexed to the writ petition, it appears that the petitioner is the owner of the goods in question and further considering the admitted position that the respondent authority concerned has already determined the tax and penalty under the aforesaid Act and further that the petitioner is ready and willing to pay the same, this writ petition being WPA 28462 of 2022 is disposed of by directing the respondent No.4/Authority concerned to release the vehicle and goods in question within 72 hours from the time of depositing the tax and penalty determined by the respondent Authority concerned subject to factual verification of the documents to be produced by the petitioner to establish its ownership. Further, upon compliance of the aforesaid conditions of payment of tax and penalty and production of the documents relating to the ownership of the petitioner, the respondent Authority concerned shall extend the period of validity of e-way bill in accordance with law.

(Md. Nizamuddin, J.)