

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 23120 of 2024

Sandip Kumar Pandey
Versus
Assistant Commissioner of State Tax,
Goods and Services Tax Bureau of Investigation
& Ors.

Ms. Rita Mukherjee
Mr. Ghanshyam Jha
Mr. Rowsan Kumar Jha
... For the petitioners.

Mr. Anirban Ray, Ld. GP,
Mr. T. M. Siddiqui
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
... For the State.

1. Affidavit of service filed in Court today is taken on record.
2. Challenging, inter alia, the order passed under Section 129(3) of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act") dated 3rd August, 2024, the present writ petition has been filed.
3. Ms. Mukherjee, learned advocate appearing on behalf of the petitioner would submit that there is extreme urgency for getting the goods, which had been intercepted and detained on 21st July, 2024 released. Provisions of Section 129(1)(a) of the said Act grants an opportunity to get the goods released upon payment of penalty in the manner as provided for therein. She submits that the petitioner is interested to get the

goods released by invoking the aforesaid provision.

Unfortunately, the respondents are not permitting the petitioner to exercise his rights under the said Act.

4. Mr. Siddiqui, learned Additional Government Pleader appearing on behalf of the respondents would submit that the instant writ petition is not maintainable. The petitioner has no locus to maintain the same. It is submitted that the entire transaction is fictitious. In any event, the petitioner has also not filed any application by invoking the provisions of Section 129(1)(a) of the said Act. He still further submits without going into the issue of the locus of the petitioner to maintain the petition, the petitioner has an alternative remedy insofar as the challenge to the order passed under Section 129(3) of the said Act is concerned. Having regard to the same, he prays that the instant writ petition should not be entertained by this Hon'ble Court.

5. Heard the learned advocates appearing for the respective parties. Although, it is true that the petitioner may has an alternative remedy before the appellate authority in respect of the challenge to the order passed under Section 129(3) of the said Act, however, I am of the view that in the event, the petitioner intends to invoke his rights as provided under Section 129(1)(a) of the said Act, the petitioner is entitled to do so. However, in the instant case, there

appears to be no formal application filed by the petitioner for invoking the provisions of Section 129(1)(a) of the said Act.

6. In view thereof, and taking into consideration the submissions made by Ms. Mukherjee, I permit the petitioner to apply before the respondents by invoking the provisions of Section 129(1)(a) of the said Act subject to the petitioner establishing their right to maintain such application. In the event, a formal application is filed with the respondents within a period of 10 days from date, the respondents shall dispose of such application as expeditiously as possible, preferably within a period of 10 days from the date of filing of such application.
7. Insofar as challenge to the order passed under Section 129(3) of the said Act is concerned, since an efficacious alternative remedy is available, there is no scope to entertain the writ petition, as regards such challenge.
8. It is made clear that this Court has not gone into the merits of the claim made by the petitioner and it shall be open to the respondent no.1 to take an appropriate decision in accordance with law without being influenced by any observation made hereinabove.
9. With the above observations and directions, the writ petition is disposed of.

10. There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)