

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 23086 of 2024

RVM Recycling Metyals Private Limited & Anr.
Versus
Assistant Commissioner of State Tax,
Goods and Services Tax Bureau of Investigation
& Ors.

Mr. Pranit Bag
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 4th September, 2024, the present writ petition has been filed.
3. Mr. Bag, learned advocate appearing on behalf of the petitioners would submit that there is extreme urgency for getting the goods, which had been intercepted and detained on 10th August, 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. He submits that

the petitioners are interested to get the goods released by invoking the aforesaid provision. Unfortunately, the respondents are not permitting the petitioners to exercise their 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 petitioners have no locus to maintain the same. It is submitted that the entire transaction is fictitious. In any event, the petitioners have 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 petitioners to maintain the petition, the petitioners have 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 petitioners may have 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 petitioners intend to invoke their rights as provided under Section 129(1)(a) of the said Act, the petitioners are entitled to do so. However, in the instant case,

there appears to be no formal application filed by the petitioners 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 Mr. Bag, I permit the petitioners to apply before the respondents by invoking the provisions of Section 129(1)(a) of the said Act subject to the petitioners 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 petitioners 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.)