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Ct. 237

WPA 1395 of 2026

**Nishu
Vs.
The Union of India & Ors.**

Mr. Pranit Bag, Ms. Rita Mukherjee, Mr. Ghanshyam Jha, Mr. Ridhiman Mukherjee, Ms. Anwasha Chakraborty	...for the Petitioner
Mr. Nilotpal Chatterjee, Mr. Debopriyo Karan	...for the State
Ms. Ranjana Chatterjee	...for Union of India

The petitioner claims to be the sole proprietor of M/s. Sunshine Enterprises, having its office in Kanpur, Uttar Pradesh. The petitioner alleges that the said Sunshine Enterprises sold 480 cartons of pan masala, valued at Rs. 36,24,000/-, to one Maa Kali Traders, having its office in Howrah, West Bengal, on December 31, 2025.

The said goods were transported from Kanpur to Howrah in a vehicle bearing registration no. UP 78 KT 9551, accompanied by the requisite tax invoice, e-way bill, and consignment note.

However, the said vehicle was intercepted by Respondent No. 6 on January 4, 2026, and on the same date, Form MOV-02 was issued, and the vehicle along with the goods was detained.

Subsequently, by a letter dated January 7, 2026, the petitioner requested Respondent No. 6 to release the goods along with the vehicle, claiming herself to be the owner thereof. In response, Respondent No. 6, by a letter dated January 8, 2026, required the petitioner to appear personally in order to proceed further in the matter.

It appears that thereafter, by a letter dated January 12, 2026, the petitioner, through her advocate, sought permission to be represented by counsel and reiterated her request for release of the goods and the vehicle.

Respondent No. 6, however, by a letter dated January 14, 2026, informed the petitioner that a report had been received from the GST Authority in Uttar Pradesh stating that the petitioner's firm was a non-existent and bogus entity, allegedly created for the purpose of availing unlawful input tax credit.

The respondent authorities again insisted upon the personal appearance of the petitioner for further proceedings. The petitioner, by a letter dated January 15, 2026, reiterated her request to be represented through an advocate.

In this factual backdrop, the present writ petition has been filed, inter alia, seeking release of the vehicle and the goods.

It appears before this Court that, subsequent to the issuance of Form MOV-02, no formal order of seizure or

detention has been passed by the respondent authorities.

Learned counsel appearing for the respondent authorities submits that, despite repeated requests, the petitioner failed to appear, and consequently, the matter could not be proceeded with. It is further submitted that, upon receipt of information from the GST Authority in Uttar Pradesh regarding the doubtful status of the petitioner's entity, the respondent authorities deemed it appropriate to require the petitioner's personal appearance in order to verify her ownership over the goods in question.

Learned counsel appearing for the respondent authorities, however, produced a letter from the consignee dated March 30, 2026, indicating that the consignee requested that the vehicle and the goods not be released without his consent. The consignee further indicated that he may appear before the respondent authorities either physically or through video conferencing.

Mr. Pranit Bag, learned counsel appearing for the petitioner, submits that the petitioner is ready and willing to take release of the goods upon payment of the applicable penalty in terms of Section 129(1)(a) of the Central Goods and Services Tax Act, 2017.

It is further submitted that the petitioner, being a woman residing in Uttar Pradesh, seeks to be represented through her advocate before the respondent authorities.

This Court is not satisfied with the manner in which

the respondent authorities have dealt with the matter. The goods under detention are, without doubt, perishable in nature, and the authorities ought to have proceeded within the statutory time frame prescribed under the Central Goods and Services Tax Act, 2017 and the rules framed thereunder.

Admittedly, in the present case, even after more than three months from the date of interception, no formal order of seizure has been passed.

Learned counsel for the respondent authorities contends that, owing to the petitioner's failure to appear personally, the proceedings could not be carried forward since there was a doubt regarding the ownership of the goods.

This Court finds no justification in such a stand.

The circular dated December 31, 2018, issued by the Department of Revenue, Ministry of Finance, Government of India, clarifies the issue as to who is to be regarded as the owner of the goods for the purposes of Section 129(1) of the Central Goods and Services Tax Act, 2017, as follows:

“It is hereby clarified that if the invoice or any other specified document is accompanying the consignment of goods, then either the consignor or the consignee should be deemed to be the owner. If the invoice or any other specified document is not accompanying the consignment of goods, then in such cases, the consignment of goods,

then in such cases, the proper officer should determine who should be declared as the owner of the goods.”

It is not in dispute before this Court that the invoices in the present case clearly indicate the petitioner’s firm as the consignor and Maa Kali Traders as the consignee. The concerned respondent authorities ought to have determined the ownership of the goods in question in light of the aforesaid circular.

Insofar as the insistence on personal appearance is concerned, this Court finds no justification in the stand adopted by the respondents. Section 116 of the Central Goods and Services Tax Act, 2017 expressly permits a person to appear before an officer appointed under the Act in connection with any proceedings thereunder through an authorised representative, including an advocate.

In view of the above, the present writ petition is disposed of with the following directions:

Respondent No. 6 shall fix a hearing on April 13, 2026. No further notice shall be required to be served upon the petitioner. The concerned respondents shall permit the petitioner to be represented through her learned advocate, Mr. Ghanshyam Jha.

The respondent authorities shall, however, issue a notice of hearing to Maa Kali Traders in terms of this order within 24 hours from the date hereof.

The petitioner shall be at liberty to deposit the amount in terms of Section 129(1)(a) of the Central Goods and Services Tax Act, 2017, without prejudice to her rights and contentions. Upon granting an opportunity of hearing to the parties, the concerned respondent shall pass an order in terms of Section 129(5) of the said Act within a period of 48 hours thereafter.

It is made clear that, in the event the authority accepts the payment offered by the petitioner in terms of Section 129(1)(a), the goods and the vehicle shall be released in accordance with law. However, the petitioner shall be at liberty to challenge such order before the appropriate appellate authority, raising all the points available to him.

Accordingly, **WPA 1395 of 2026** stands disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)