IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

23.03.2026
Sl. No.10
tkm

W. P. A. 324 of 2026

[Devender Sharma-Vs- State of West Bengal & Anr.]

Mr. Dhiraj Lakhotia
Ms. Radhika Agarwal
Ms. Khushi Kundu
Ms. M Sharma
Mr. Bijon Ghosh
… … for the petitioner

Mr. Joyjit Choudhury
Ms. Rima Sarkar
… for the State

1. The affidavit of service is taken on record.
2. The petitioner has preferred the present writ petition challenging the impugned notice dated 04.01.2026 passed under section 129(3) of the Central Goods and Service Tax Act 2017 and West Bengal Goods and Service Tax Act 2017 whereby the penalty of Rs. 13,58,844/- has been imposed upon the petitioner.
3. Learned counsel for the petitioner submits that the goods: 8 brand new motor cars were sold by the Maruti Suzuki India Ltd. to a registered dealer M/s Ramlal Durgadutt Motors Pvt. Ltd., Nagaon, Assam. The goods were loaded onto vehicle bearing no. NL01AB1861 for transportation from Manesar, Haryana to Nagaon, Assam.

4. It is further submitted that during transit, vehicle NL01AB1861 suffered a mechanical break down near Siliguri. Due to this unforeseen emergency, the eight motor cars were offloaded from the aforementioned vehicle and reloaded onto vehicle HR46D3946 belonging to Sandeep Logistics Private Limited for onward transportation to the buyer in Nagaon, Assam. On 01.01.2026, the vehicle bearing no. HR46D3946 was intercepted at Ghoramara, NH31C, Alipurduar, by the officials of Bureau to Investigation (North Bengal), Alipurduar Zone.

5. Learned counsel for the petitioner submits that at the time of interception of the said vehicle, all documents including 8 tax e-invoices, all corresponding e-way bills, good receipts and other documents were produced. The driver also disclosed the fact of mechanical break down and consequent vehicle change. The statement of the driver was recorded in FORM GST MOV-01. An order for physical verification was also passed immediately in FORM GST MOV-02. It is further contended that upon interception, a consolidated e-way bill reflecting the new

vehicle HR46D3946 was also generated. He further submits that upon physical verification of the goods, the same were found to be fully matching with the invoices and no discrepancies in respect of the goods were found. However, the respondent authorities issued a show cause notice and passed the impugned order dated 04.01.2026 thereby imposing the aforesaid penalty upon the petitioner.

6. Learned counsel for the petitioner submits the order has been passed in violation of the principles of natural justice. It is further submitted that the penalty was paid under protest and the same cannot be construed as an acceptance of guilt or fault on the part of the petitioner.

7. Learned counsel for the respondent submits that the present order is an appealable order under section 107 of the Act. He submits that the petitioner has an alternative and efficacious remedy available in law.

8. This court has considered the submissions advanced by the parties and has perused the materials on record. The impugned order has been passed under section 129(3) of the aforesaid Acts and efficacious statutory

remedy of appeal is available to the petitioner under section 107 of the said Acts against the order passed by the proper officer.

9. It is well settled that when a statutory remedy of appeal is available, the writ court ordinarily refrained from exercising its jurisdiction under Article 226 of the Constitution, unless exceptional circumstances are made out.

10. Having regard to the facts and circumstances of the case and without entering into the merits of the controversy, this court is of the considered view that the petitioner ought to avail the statutory remedy of appeal before the appropriate appellate authority under section 107 of the Act.

11. In the event such appeal is filed within a period of two weeks from date, the appellate authority shall consider and decide the same on its own merits and in accordance with law without influenced by any of the observations made by this court.

12. With the above directions, the present writ petition stands disposed of.

(Gaurang Kanth, J.)