Form J(2)
JPD Sl.No. 3
M.D.

In the High Court at Calcutta

In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Aniruddha Roy

WPA 622 OF 2026

Ranjeet Kumar Poddar

Vs.

Assistant Commissioner of CGST & CX
Headquarter, Anti Evasion Unit,
Siliguri Commissionerate and Anr.

For the Petitioner : Mr. Akshat Agarwal, Adv. (VC)
Mr. Sandip Guha Roy, Adv.

For the Respondents : Mr. Ratan Banik, Adv.
Mr. Bishwa Raj Agarwal, Adv.

Heard on : May 14, 2026

Judgment on : May 14, 2026

[**In Court**]

Aniruddha Roy, J. :

Facts:

1. The petitioner as a **consignor** claims to have supplied and transported **Dried Areca Nuts** (hereinafter, the nuts) for a quantity of ***34,650 kgs.***

pursuant to the order placed by one M/s. Barman Tradecomm at New Delhi (hereinafter, the **consignee**).

2. During the transit the truck, through which the goods were transported, was intercepted by the CGST Authority and the consignment and the conveyance had been detained.

3. The revenue authority had issued a show-cause notice dated ***March 30, 2026, annexure P5 at page 33*** to the writ petition under ***Section 129(3) of 2017 Act*** read with ***Section 20 of IGST Act***, ***2017***.

4. Petitioner has submitted its reply dated ***April 2, 2026, Annexure P6 at page 40*** to the writ petition.

5. The revenue authority then passed its order dated ***April 6, 2026 at page 46*** to the writ petition and then issued the demand dated ***April 6, 2026, Annexure P7 at page 44*** to the writ petition for a total sum of ***Rs.51,87,380/- for 35,530 kgs*** of nuts and additionally on account of ***conveyance*** a sum of ***Rs.2,00,000/-***.

6. ***Page 50*** of the writ petition shows that, the demand in terms of ***Section 129(1)(a)*** of the 2017 Act is for a sum of ***Rs.5,18,738/-*** and the demand in terms of ***Section 129(1)(b)*** of 2017 Act is for ***Rs.51,87,380/-***.

7. At this juncture, claiming release of the consignment in terms of ***Section 129*** of the 2017 Act the petitioner has filed the instant writ petition.

<u>Submissions</u>:

8. Mr. Akshat Agarwal, learned Advocate (VC), appearing for the writ petitioner, at the threshold has referred to a circular dated ***December 31, 2018*** issued by the Commissioner (GST), ***Annexure P8 at page 54*** to the writ petition and submits that, the said circular has 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.

9. Referring to the said show-cause notice dated March 30, 2026 learned Advocate for the petitioner submits that, the stand of the revenue is clear that, the relevant tax invoices and the e-way bills were checked up though the *prima facie* finding of the revenue authority is that, the documents tendered appear to be defective. The genuineness of the goods in transit and tendered documents required further verification. He submits that, this stand of the revenue authority would show that, the relevant documents were there but at their correctness was disputed.

10. Learned Advocate for the petitioner then refers to the provisions laid down under ***Section 129(1)(a)*** from the 2017 Act and submits that, the statute provides where the owner of the goods comes forward for payment of the penalty determined by the revenue, on payment of penalty equals to 200%, the goods may be released. In the instant case, the penalty allegedly fixed under 129(1)(a) of the 2017 Act is ***Rs.5,18,738/-***. The petitioner is ready and willing to pay the said amount

and get the consignment released as the goods under the consignment are perishable in nature and if the goods are not allowed to be released, the same will suffer its natural decay, when the rights and interests of the petitioner will be seriously jeopardized. In support, he has relied upon a judgment of the ***Hon'ble Division Bench dated January 9, 2026, In the matter of : Riya Das Vs. Inspector of CGST & CX, Headquarter, Anti Evasion Unit, Siliguri Commissionerate & Ors. rendered in MAT 2 of 2026***.

11. He further submits that, once the show-cause records the finding that, the documents are there in support of the consignment, the revenue authority cannot question the ownership of the consignment whether the petitioner is the owner or not.

12. He further submits that, from the said show-cause notice it appears that only three names had featured therein and the petitioner's name was shown to be the ***consignor*** and M/s. Barman Tradecomm has been shown as ***consignee***. Therefore, the revenue cannot contend anything to the contrary or cannot deny that, the petitioner is not the consignor or M/s. Barman Tradecomm is not the consignee. In any event, following the said circular dated ***December 31, 2018*** both the consignor and consignee should be treated as deemed owner of the consignment.

13. In the light of the above submissions, the petitioner prays for release of the consignment in terms of ***Section 129(1)(a)*** of the 2017 Act.

14. Inasmuch as, Mr. Agarwal on behalf of the petitioner submits that, assailing the order of demand dated ***April 6, 2026***, the petitioner shall prefer a statutory appeal ***positively*** within a period of ***three weeks*** from date.

15. Mr. Ratan Banik, learned Advocate, being ably assisted by Mr. Bishwa Raj Agarwal, learned Advocate, appearing for the respondents/ Revenue submits that, the show-cause itself would depict that the revenue has denied and disputed the ownership of the petitioner. The revenue has also denied the correctness and validity of the relevant documents being the tax invoices and e-way bills which were produced at the time of interception. The revenue has also disputed the quantity and genuineness of the consignment.

16. Referring to ***Section 129 (1)(b)*** *of* ***2017 Act*** learned Advocate for the revenue submits that, since the ownership has been disputed, in the event of release of consignment in favour of the petitioner as the consignor, the petitioner has to pay the penalty equal to 50% of the value of the goods or 200% of the tax payable on such goods whichever is higher, as according to the revenue the owner of the goods have not come forward for payment of the penalty.

17. In support, the revenue has relied upon the following decisions :-

(a) ***In the matter of : S N Trading Co. & Anr. Vs. Union of India & Ors. dated June 20, 2025 rendered in WPA 1240 of 2025***.

(b) A judgment of the Hon'ble Division Bench dated ***June 26, 2025, In the matter of : S.N. Trading Company & Anr. Vs. Union of India & Ors. rendered in MAT 48 of 2025***.

(c) An order of Hon'ble Supreme Court dated ***December 10, 2025***, ***In the matter of*** **:** ***S.N. Trading Company & Anr. Vs. Union of India & Ors. rendered in Special Leave to Appeal (C) No. 22173 of 2025***.

(d) A judgment of Co-ordinate Bench dated ***August 19, 2025***, ***In the matter of*** : ***M/s. Assam Supari Traders Vs. Union of India & Ors. rendered in WPA 1691 of 2025***.

(e) A judgment of Co-ordinate Bench dated ***December 10, 2025, In the matter of***: ***JJ Traders Vs. Union of India rendered in WPA 2144 of 2025***.

18. While distinguishing the judgment ***In the matter of***: ***Riya Das (supra)*** Mr. Banik submits that, there was no material placed before the Court to show that the petitioner therein did not have the ownership whereas in the instant case in the show-cause notice itself the revenue has disputed the ownership and genuineness of the goods and the quantity of the goods.

19. In the light of the above submissions learned Advocate for the revenue prays for dismissal of this writ petition and submits that there is no

scope for releasing the consignment before the final adjudication on the title of it and until the appeal which has been undertaken by the petitioner to be filed and finally disposed of.

Decision:

20. After considering the rival contentions the parties and on perusal of the materials on record, it appears to this Court that, transmission of the consignment from Bakshirhat to New Delhi is an admitted position. The said show-cause notice has described the petitioner as the consignor and the said M/s. Barman Tradecomm as the consignee. The show-cause notice further reflects an objection of the revenue with regard to the ownership of the consignment, its quality and quantity.

21. The provision under Section 129 of the 2017 Act provides for detention, seizure and release of goods and conveyances in transit. Admittedly, the consignment was intercepted and detained during transit. In the relevant statute of 2017 there is no other further provision alike.

22. For convenience the relevant provisions under ***Section 129*** of ***2017 Act*** is quoted below.

> *"129.Detention, Detention, s seizure and release of goods and conveyances in transit*
> *(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,-*

(a) On payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;

(b) On payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;]

(c) Upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:

PROVIDED that no such goods or conveyance shall be detained or seize without serving an order of detention or seizure on the person transporting the goods.
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***"

23. On reading of the above provisions, it appears to this Court that, notwithstanding anything contained in 2017 Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of the Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the goods and documents relating to such goods and conveyance shall be liable for detention and after such detention the same shall be released on payment of penalty equal to 200% of the tax payable on such goods where the owner of the goods comes forward for payment of such

consignment. It is also provided that, on payment of penalty equal to 50% of the value of the goods or 200% of the tax payable on such goods, whichever is higher, the goods may be released where the owner of the goods does not come forward for payment of such penalty.

24. The provisions under the taxing statute should be interpreted and construed strictly and literally, liberal interpretation is not permitted.

25. Therefore, on a meaningful and harmonious reading of the provisions under Section 129 of the 2017 Act, this Court finds that, the provision for release of the detained goods is there in the statute upon payment of penalty, either in favour of the owner or in favour of any person other than owner who comes forward to make payment of such penalty, as the case may be. This shows that the legislature while legislating the provision thought it fit not to detain the goods but to release the same subject to fulfillment of the conditions made under Section 129 of 2017 Act. Once the provision for release of goods are there, it can safely be construed that, the legislative intent was not to create any charge or lien over the goods against or in relation to the demand raised by the revenue. In the event, the levy is not paid, which is otherwise crystalised and determined by the revenue in accordance with law, then the recovery proceeding is prescribed under the statute read with the relevant rules framed thereunder to recover it. Therefore, once the provisions laid down under Section 129 of 2017 Act is satisfied, it is the obligation upon the revenue to release the goods/consignment.

26. In the facts of this case, the show-cause notice shows that, the revenue has raised an objection with regard to the ownership, quality and quantity of the subject goods and also with regard to the authenticity and veracity of the related documents i.e. the tax invoices and e-way bills. In the event, the petitioner, as has undertaken to file statutory appeal assailing the demand succeeds then the law will take its own course accordingly and in the event, the appeal does not succeed then the demand stands for which the petitioner shall be liable to make payment and in the event, the petitioner does not pay or avoids to pay the same, the moment the demand is finally crystallized in accordance with law, recovery proceedings shall be initiated by the revenue in accordance with law against the petitioner.

27. Inasmuch as, during adjudication on the demand before the jurisdictional appellate authority or thereafter before the jurisdictional tribunal, as the case may be, if it is found that, the assessee is not the owner of the goods or the challenge fails, the ultimate demand will stand and will be crystallized. Therefore, at this stage, adjudication on ownership of goods is of no relevance. Since the petitioner has asserted that he is the owner of the goods and no contrary material has been produced or identified in the show-cause notice or in the order of demand, the petitioner will be permitted to have his consignment released in terms of ***Section 129(1)(a) of the 2017 Act***.

28. ***In the matter of*: *Riya Das (supra)***, the document of title to the consignment was seized with the goods which suggested the ownership of the appellant in respect of the seized consignment. There was no contrary claim by any parties with regard to the seized consignment. In the facts of this case also, as already discussed above, no contrary material has been produced or discussed in the order raising demands on the ownership of the consignment.

29. ***In the matter of***: ***S.N. Trading Company & Anr. (supra)***, the Hon'ble Supreme Court during consideration of the Special Leave Petition sought various information from the appellant with regard to the ownership of the seized consignment. In the instant case no contrary material has been produced by the revenue neither mentioned in the said order determining demand to contend that ownership of the consignment belongs to somebody else. Hence, the ratio laid down in the matter shall not apply in the facts of this case.

30. ***In the matter of***: ***M/s. Assam Supari Traders (supra)***, the Co-ordinate Bench directed a deposit to be made in terms of Section ***129(1)(b)*** of the 2017 Act as the revenue came up with a dispute with regard to the ownership of the consignment. However, in the facts of the instant case, the revenue has not disclosed any material neither had it discussed any material or identified any material to show, at this stage, that the claim of the petitioner as the owner of the consignment is not

tenable. Therefore, the ratio decided in the said judgment would not apply in the facts of the present case.

31. ***In the matter of : JJ Traders (supra)***, the Co-ordinate Bench in addition directed to furnish a bond in terms of ***Rule 140*** of the relevant rules framed under the relevant Act. On reading of the said Rule 140, I am of the view that, it is an independent provision. Inasmuch as, the demand of the revenue is to the extent of Rs.51,87,380/-. In the event, the said demand is ultimately crystallized in accordance with law, the petitioner will have to pay the same or in default the revenue will initiate its appropriate recovery proceeding in accordance with law. Whether, at this stage the petitioner is the owner of the consignment or not would have no impact in the event the said demand of Rs.51,87,380/- is finally crystallized.

32. The goods are perishable in nature. The revenue has not come up with any concrete or unimpeachable evidence neither has it mentioned in its order for demand dated April 6, 2026 which would suggest *prima facie* that, the petitioner is not the owner of the consignment.

33. In view of the foregoing reasons and discussions, this Court holds that, subject to compliance of the provisions laid down under Section ***129(1)(a) of the 2017 Act***, the consignment shall be released in favour of the petitioner in accordance with law. The consignment shall be released ***positively*** within the ***next three clear days*** from the date of

deposit of the amount by the petitioner in terms of ***Section 129(1)(a) of the 2017 Act***.

34. In the event, the petitioner fails to file statutory appeal within ***three weeks*** from date, as undertaken by him or beyond the period of limitation, if any, prescribed under the law, and the demand attains its finality, the revenue authority shall be free to proceed against the petitioner to realize the demand in accordance with law.

35. It is further clarified that in the event, the petitioner pays the penalty in terms of ***Section 129(1)(a) of the 2017 Act,*** irrespective of payment on account of the conveyance by the conveyance owner, the consignment shall be released in favour of the petitioner.

36. With the above observations and directions, this writ petition ***WPA 622 of 2026*** stands ***disposed of***, without any order as to costs.

37. Parties shall act on the basis of the server copy of this judgment duly downloaded from the official website of this Court.

(Aniruddha Roy, J.)