In The High Court at Calcutta
In The Circuit Bench at Jalpaiguri
Appellate Side

Ct. No. 5 **26.02.2026**
JPD
Item No. 18 SM

WPA 3265 of 2022
Surendra Kumar Agarwal
Versus
The Joint Commissioner of State Tax & Ors.

Mr. Kallal Ghosh
......for the petitioner

1. The writ application has been preferred praying for quashing the order dated 29.09.2022 passed by the respondent no. 1 in Appeal No. ARN AD190722002797U, which upheld the order dated 06.07.2022 of the respondent no. 2.

2. It is the case of the petitioner herein that vide the impugned order 29.09.2022, the appellate authority, on passing a reasoned order, has dismissed the appeal.

3. Vide the impugned order, which was appealed against the authority concerned, had directed the petitioner herein to appear for a personal hearing and he was also directed to show cause within a time frame on receiving the said notice.

4. Vide the said order dated 06.07.2022, the authority passed an order under Section 129(3) of the CGST Act. The authority concerned in the impugned proceedings concluded on 06.07.2022, passed an order as follows.

"You are hereby directed to make the payment forthwith/not later than seven days from the date of the issue of the order of detention in FORM GST MOV-

06, failing which action under Section 130 of the Central/State Goods and Services Tax Act/Section 21 of the Union Territory Goods and Services Tax Act or Section 20 of the Integrated Goods and Services Act shall be initiated."

5. The petitioner preferred an appeal against the said order and one of his pleadings is as follows.

"(ii) The appellant instructed orally to his loading in-charge Mr. Vimlesh Kumar on 01-07-2022 to load the goods on the vehicle No. UP-76/K-9705 as detailed below:-

Sl.	Invoice No.	Description	Packing	Quantity	Rate
1.	26	Bhagat Brand Detergent Powder	120x70gm 50x475gm 25x950gm	50 Bags 175Bags 125Bags	341.50 740.00 740.00
2.	27	Bhagat Brand Detergent Powder	120x70gm 50x475gm	400 Bags 100 Bags	341.50 740.00
3.	T-15	Bhagat Chhap Sada Tobacco	28x42x8gm	150 Bags	1,500.00

*(iii) By misunderstanding on account of human error of the loading in-charge Mr. Vimlesh Kumar, 400 bags of Bhagat Chhap Sada Tobacco MRP 5/- were loaded instead of 400 Bags of Bhagat Brand Detergent Powder of 120 * 70 gm MRP 5/- against the Invoice No. 27 referred above."*

6. The petitioner admits the said discrepancy in the goods which were loaded against the invoices generated and also in respect of the e-way bills issued while the vehicle was in transit.

7. The appellate authority considering the case of the petitioner herein was pleased to pass the impugned order dated 29.09.2022. The appellate authority considering the order under appeal and also considering the materials on record which admittedly showed discrepancy as also admitted by the appellant/petitioner herein **whose only defence was of "misunderstanding on account of human error of loading in-Charge"**.

8. From the impugned order passed by the appellate authority it appears that the petitioner herein was duly served a show cause notice, to which he has replied and the same has been duly considered by the authority concerned while passing an order under Section 129(3) of the Act and the appellate authority herein who has held that the authorized officer herein has followed the relevant provisions of the Act as noted in the said order, which has also been admitted by the petitioner herein claiming **"misunderstanding of the loading in-Charge"**.

9. The said defence of the petitioner herein against the said penalty order and the order of the appellate authority cannot be sustained, as the same is not acceptable in law.

10. Considering that the authorities concerned have followed the principles of natural justice and have passed orders in accordance with law, the same requires no interference by this Court.

11. The writ application having no merit stands dismissed.

12. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

[Shampa Dutt (Paul). J]