



CWP-9306-2026 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9306-2026 (O&M)

Rajeev Kumar

... Petitioner

Vs.

State of Haryana and others

... Respondents

1.	The date when the judgment is reserved	27.03.2026
2.	The date when the judgment is pronounced	17.04.2026
3.	The date when the judgment is uploaded on the website	18.04.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE RAMESH KUMARI

Present: Mr. Armaan Cajla, Advocate
for the petitioner.

Mr. Sourabh Goel, Senior Standing Counsel
for respondents No.2 and 3.

RAMESH KUMARI, J.

1. The petitioner has filed the instant petition under Article 226/227 of the Constitution of India, praying for issuance of an appropriate writ for quashing of the impugned penalty order issued under Section 123(3) of the CGST Act, 2017/HGST Act, 2017, dated 28.01.2026 (Annexure P-9).
- 2(i) The case of the petitioner is that the petitioner is running a firm under the name and style of M/s Sulodhia Steels in Mandi Gobindgarh, Punjab and is engaged in the business of trading in iron scrap.



CWP-9306-2026 (O&M)

-2-

(ii) Vehicle of the petitioner was intercepted on 12.01.2026, when it was transporting goods i.e. M.S Boring Scrap from Chennai to Mandi Gobindgarh. The vehicle had the following documents:-

a) Invoice No. 013 dated 11.12.2025 issued by M/s J.K. Steel, Sadayan, Kuppam, Village Road, Manali, Chennai- 600103 for Rs.9,96,150/-, wherein, IGST and TCS amounting to Rs.1,79,307/- and Rs. 11,755/- has been charged separately. The consignee is Sulodhia Steels Mandi Gobindgarh having GSTN No. 03AIGPK72861FZ6.

b) E-Way Bill No.541022412453 dated 11.12.2025, valid upto 24.12.2025.

c) Updated E-Way Bill No.501938389644 dated 10.01.2026 from Morena, Madhya Pradesh, mentioning therein the same particulars of the invoice and vehicle number and

d) Copy of GR No. 2353 dated 13.12.2025 issued by Ramk Multi Model Logistics Limited. The goods were dispatched from Chennai to Mandi Gobindgarh.

(iii) The statement of the driver/person-in-charge of the intercepted vehicle was recorded in Form GST MOV-01.

(iv) On not being satisfied with the documents enclosed, respondent No.3 issued MOV-02 dated 12.01.2026.

(v) Respondent No.3 also issued an order for physical verification/inspection of the conveyance, goods and documents. Physical verification of the



CWP-9306-2026 (O&M)

-3-

goods was also done by respondent No.3 and physical verification report, dated 12.01.2026 was issued.

- (vi) Order of detention in Form GST MOV06, dated 15.01.2026 was also issued to the petitioner. However, the eligible copy of the order of detention was never supplied to the petitioner.
 - (vii) Post order of detention dated 15.01.2026, the petitioner was issued final show cause notice (Annexure P-5) as to why the proposed tax and penalty amounting to Rs.3,58,614/-, should not be payable by him within seven days from the receipt of the notice. The petitioner was directed to appear before respondent No.3 on or before 28.01.2026 at 11 am.
 - (viii) After issuance of the aforesaid show cause notice, the petitioner duly paid the penalty under protest to get released the vehicle and same was informed to respondent No.3.
 - (ix) After receipt of the penalty, under protest, respondent No.3 issued release order of the vehicle on 23.01.2026.
 - (x) After release of the vehicle, the petitioner intimating respondent No.3 through email regarding payment of penalty under protest and reply to the show cause notice.
 - (xi) Reply vide e-mail to the show cause notice was not considered and no order was passed after receipt of the reply. However, respondent No.3 passed penalty order dated 28.01.2026 confirming the demand of Rs.3,58,614/-.
3. Learned counsel for the petitioner submitted that in spite of having of the valid documents, the vehicle of the petitioner when transporting scrap from Chennai to Mandi Gobindgarh was intercepted and notice dated



CWP-9306-2026 (O&M)

-4-

22.01.2026 was issued. Physical verification of the goods was also done vide verification report of the same date. The order of detention dated 15.01.2026 was illegally issued by the petitioner and penalty of Rs.3,58,614/- was wrongly imposed. The said penalty was paid by the petitioner under protest and thereafter, his vehicle, along with goods, was released on 23.01.2026. After release of the vehicle, the petitioner e-mailed respondent No.3 regarding payment of penalty under protest, but no order on the show cause notice was passed, which is illegal, unlawful and results in abuse and mala fide exercise of power and contrary to the principles of natural justice. In support of his contentions, learned counsel for the petitioner relied upon the judgment of Hon'ble Apex Court in *M/s ASP Traders versus State of Uttar Pradesh and others*, decided on 24.07.2025 arising out of SLP (C) No. 17995 of 2022.

4. Mr. Sourabh Goel, senior standing counsel, on advance notice, appeared on behalf of respondents No. 2 and 3 and submitted that respondent No.3 is not bound to pass any final order to the reply, once the amount of Rs.3,58,614/- demanded through Annexure P-5 has been paid.
5. We have considered the rival submissions.
6. In the release order, dated 23.01.2026, there is a simple assertion that goods conveyance carrying goods was inspected and after inspection following the due process, order of confiscation of goods and conveyance was issued in form GST MOV-11 and served on the owner/person-in-charge of conveyance. It is further stated therein that the owner/person-in-charge has come forward and made the payment of tax, penalty, fine in lieu of confiscation of goods and conveyance and it is further stated in



“In view of the above, the goods and conveyance are hereby released on 23.01.2026 at 5:10 am/pm in good condition.”

7. The release order dated 23.01.2026, merely records that the detained goods and vehicle were released on payment of the proposed tax, penalty, fine. It makes no mention of withdrawal of show cause notice or of a conclusion of proceedings initiated under Section 129 (3) of CGST Act, 2017.
8. In ***M/s ASP Traders’s*** case (supra), a similar issue as in the present case was for adjudication and Hon’ble Apex Court observed as under:-

“14. It is a well settled principle that every show cause notice must culminate in a final, reasoned order. While Section 129(5) of the CGST Act, 2017 provides that proceedings shall be deemed to be concluded upon payment of tax and penalty, this deeming fiction cannot be interpreted to imply that the assessee has agreed to waive or abandon the right to challenge the levy - a right that is protected by the very enactment itself. The term "conclusion" as used in Section 129(5) merely signifies that no further proceedings for prosecution will be initiated. It does not absolve the responsibility of the proper officer to pass an order concluding the proceedings. Therefore, the proper officer is duty-bound to pass a formal order in Form GST MOV-09 and upload a summary thereof in Form GST DRT 07 as mandated under Rule 142(5) and the Circular dated 13.04.2018, so as to enable the taxpayer to avail the appeal remedy as per law.



15. xxx xxx xxx

16.1. Further, the payment by an assessee will not absolve the responsibility of the proper officer to pass an order justifying the demand of tax and penalty. The assessee, even by election, cannot be treated to have waived his right against the illegality committed by the proper officer or acquiesced to the demand, as by the constitutional mandate under Article 265 of the Constitution, no tax can be levied or collected except with the authority of law. There is not only a bar against levy but also against collection. Therefore, the action of the proper officer must always be justifiable and fall within the four corners of law, as it is well settled that there can be no acquiescence in tax.

17. xxx xxx xxx

18. The principles of natural justice mandate that when a taxpayer submits a response to a show cause notice, the adjudicating authority is required to consider such response and render a reasoned, speaking order. This is not a mere procedural formality, but a substantive safeguard ensuring fairness in quasi-judicial proceedings. The right to appeal under Section 107 of the CGST Act, 2017, is predicated upon the existence of a formal adjudication. An appeal can lie only against an 'order', and in the absence of a reasoned order passed under Section 129(3) of the Act, the taxpayer is effectively deprived of the statutory remedy of appeal. Such a



deprivation undermines the foundational principles of fairness, due process, and access to justice, rendering the right of appeal illusory or nugatory. It is now settled law that failure to issue a speaking order in response to a show cause notice creates a legal vacuum. Any consequential action including imposition of tax or penalty, would then be unsupported by authority of law, thereby potentially violating Article 265 of the Constitution of India, which prohibits the levy or collection of tax except by authority of law.

19. Therefore, even assuming that the payment was made by the appellant, voluntarily or otherwise, the proper officer could not be absolved of the statutory obligation to pass a reasoned order in Form GST MOV-09 and upload the corresponding summary in Form GST DRC-07. Compliance with these procedural requirements is essential not only for ensuring transparency and accountability in tax administration, but also for safeguarding the taxpayer's appellate rights under the CGST Act, 2017. Such adherence is in consonance with the constitutional mandate under Article 265 of the Constitution of India.”

9. In view of the above observations by the Hon'ble Apex Court, respondents No.2 and 3 are required to pass a reasoned order on the show cause notice Annexure P-5, which has not been done. More so, when



penalty of Rs.3,58,614/- has also been deposited by the petitioner, though under protest and intimation regarding this was sent to respondent No.3.

10. In the light of the above, penalty order dated 28.01.2026 (Annexure P-9) is set aside. However, liberty is granted to respondent No.3 to pass a fresh reasoned order under Section 129(3) of the CGST Act, 2017, in Form GST MOV-09, but only after granting an opportunity of personal hearing to the petitioner as mandated under Section 129(4) and thereafter upload the summary thereof in Form GST DRC-07. The needful be done within a period of one month from the date of receipt of a copy of this judgment.
11. Disposed of.

(DEEPAK SIBAL)

JUDGE

(RAMESH KUMARI)

JUDGE

17.04.2026
pooja saini

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No