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2026:AHC:112742-DB

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 1423 of 2026

M/s Maruti Enterprises

.....Petitioner(s)

Versus

State of U.P. and another

.....Respondent(s)

Along with :

1. **Writ Tax No. 2445 of 2026:**
   M/s Shiv Shanker Enterprises
   Versus
   State of U.P. and another
2. **Writ Tax No. 2001 of 2026:**
   M/s Praveen Supari Bhander
   Versus
   State of U.P. and another
3. **Writ Tax No. 2451 of 2026:**
   M/s Shiv Shanker Enterprises
   Versus
   State of U.P. and another
4. **Writ Tax No. 1573 of 2026:**
   Shiva Enterprise
   Versus
   State of U.P. and another

Counsel for Petitioner(s) : Sri Aditya Pandey, Sri Shubham Agrawal

Counsel for Respondent(s) : Sri Anoop Trivedi, AAG, Sri Ankur Agarwal, Standing Counsel

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Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

1. Heard learned counsel for the parties and perused the record.

2. The present petitions have been filed challenging the individual penalty orders passed against the petitioners, under Section 129(1)(d) of the GST Act, 2017 (hereinafter referred to as the "State Act"), read with the

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provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") and the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the "IGST Act").

3. The brief details of the penalty orders impugned in the individual petitions, are as under:

Serial No.	**Writ Tax No.**	**Party Name**	**Origin of Goods**	**Destination of Goods**	**Date of Impugned Penalty Order**	**Penalty Imposed (Rupees)**
1.	1423 of 2026	M/s Maruti Enterprises	West Bengal	Delhi	04.02.2026	33,18,525/-
2	2001 of 2026	M/s Praveen Supari Bhander	Assam	Nagpur	18.03.2026	40,30,299/-
3.	2451 of 2026	M/s Shiv Shanker Enterprises	Assam	Delhi	08.04.2026	40,38,458/-
4.	2445 of 2026	M/s Shiv Shanker Enterprises	Assam	Delhi	10.04.2026	40,71,675/-
5.	1573 of 2026	M/s Shiva Enterprises	Bhojpur, Bihar	New Delhi	22.02.2026	29,01,150/-

4. Facts are similar. Since, additional ground exists in Maruti Enterprises, facts relevant to that case are being noted below.

a. The petitioner, *M/s Maruti Enterprises*, is registered under the Delhi Goods and Services Tax Act, 2017 (hereinafter referred to as "Delhi Act") bearing GSTIN No. 07ACCFM9401F1ZF. The petitioner purchased 30,100 kgs of dried Areca nuts from *M/s A.K. Enterprises*, a person registered under the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the "West Bengal Act"), bearing GSTIN No. 19FGDPR7364N1ZF.

b. The said transaction is covered by Tax Invoice-cum-Challan No. AKE/25-26/19. Those goods are described to have been dispatched by road, on truck bearing No. HR-61E-7511, against e-Way Bill No. 881632659464.

c. Thus, the goods started their journey from Falakata in West Bengal to New Delhi, accompanied with Tax Invoice and e-Way bill. When the goods reached District Gautam Buddh Nagar in the State of Uttar Pradesh, (which according to the petitioner was near the exit point in the State of U.P.), and were set to enter the State of Delhi, they were intercepted by respondent no. 2, on 24.01.2026. Against Interception Memo thus issued, physical verification was conducted on 26.01.2026. Thereafter, objection arose that the goods were not accompanied with e-Tax Invoice, as mandated under the Rule 48 of the CGST Rules, 2017 (hereinafter referred to as the Central Rules). It may be noted, parallel Rules exist in all the States including State of West Bengal, State of Uttar Pradesh and the State of Delhi.

d. Though, reply was submitted to the Show Cause Notice dated 29.01.2026 issued under section 129(3) of the GST Act, it remains admitted to the petitioner that the supplier *M/s A.K. Enterprises* had not issued e-Tax Invoice to the petitioner. The petitioner describes it as a technical defect. The detaining authority acquired further information through the Common Portal that the petitioner was not registered to trade in the commodity dried Areca Nuts. Also, its registration has been suspended after filing of the writ petition. Further, the supplier dealer M/s A.K. Enterprises has obtained supplies of dried Areca Nuts from such firms, whose registration had either been suspended or cancelled.

e. Thus, rejecting the explanation furnished by the petitioner the goods have been detained and penalties imposed as described above. In such facts, upon the writ petition being filed, affidavits have been exchanged and parties heard.

5. The issues to be considered at this stage are as under:

> (i). Whether the State GST authorities of State of Uttar Pradesh have any jurisdiction vested in them, to detain goods and impose penalties referable to IGST Act, Central Act and the State Act, with respect to transaction of inter-state sale of goods, originating in one State and terminating in another State, excluding the State of Uttar Pradesh, for the only reason that such goods are passing through, using the State of Uttar Pradesh as a transit State.
>
> (ii) Whether provisions of sections 6, 68, 69, 129 of the State Act and Central Act read with Section 4 and 20(3) of the IGST Act, read with Rule 138A, 138B and 138C of the Central Rules confer jurisdiction on the GST authorities of the State of Uttar Pradesh to detain goods and impose penalties, above noted, on any anomaly in the transaction noted, though such goods are only transiting through the State of Uttar Pradesh.

6. Learned counsel for the petitioners would submit, freedom of inter-state trade is constitutionally protected under Article 301 of the Constitution of India. In the garb of power to impose reasonable restrictions, the Parliament and the State legislature may not have and at present, they have not enacted any provision of law, as may allow the authorities of the State of Uttar Pradesh, any jurisdiction to detain or confiscate such goods and/or penalise the traders who may have sold or purchased goods outside the State and who may in pursuance to such sale transaction be transporting the goods from one State to another, using the State of Uttar Pradesh as a transit State.

7. Referring to the position of the Central Act, the State Act and the IGST Act, 2017, it has been strenuously urged - present, there is absolutely no provision of enacted law to confer any jurisdiction on the State GST

authorities of Uttar Pradesh, in this regard.

8. On the other hand, learned Additional Advocate General has heavily relied on the provisions of Section 68, read with Section 129 of the State Act read with Rule 138A, 138B and 138C of the Central Rules and the State Rules, read with Section 6 of the State Act and the Central Act, to submit that concept of cross empowerment exists in the scheme of the GST laws. Also, relying on Section 4 of the Act read with Section 20(xv) of the IGST Act, it has been submitted that the GST Authorities of the State of Uttar Pradesh are wholly empowered to detain goods that may be transported in contravention of the Central Act and the IGST Act. Once clear prescription of law exists that the goods such as those involved in this case must be accompanied with e-Tax Invoice, its absence leads to an unavoidable inference that the goods were being transported contrary to the mandatory provisions of law and to that extent, they were not covered by the statutory documents. Hence, goods have been rightly detained and the penalty proceedings are wholly valid.

9. Heavy reliance has been placed on decision of the Supreme Court in **M/s Armour Security (India) Ltd. Vs. Commissioner, CGST, Delhi East Commissionerate & Another, (2025) SCC OnLine SC 1700**. Also, relying on decision of the Supreme Court in **M/s ASP Traders Vs. State of U.P. and Others (2026) 2 SCC 641**, it has been contended, in similar facts, detention of goods in the course of inter-state trade involving State of Uttar Pradesh as a transit State, has been upheld by the Supreme Court.

10. Further, relying on **State of Bihar and Others Vs. Harihar Prasad Debuka and Others, 1989 (2) SCC 192**, it has been submitted that free trade guaranteed under Article 301 of the Constitution of India, does not extend to an injunction against imposition of reasonable restrictions through legislative measures.

11. Further, relying on **State of Rajasthan and Another Vs. D.P. Metals, 2002 (1) SCC 279**, it has been submitted, measures to check evasion of tax, fall within legislative competence of the States. Such measures may stand protected, by way of reasonable restrictions.

12. On facts, it has been stressed that the seller M/s A.K. Enterprises is a non-genuine dealer. It has disclosed purchase of Areca Nuts from persons whose registrations have either been cancelled, or suspended. Second, the goods were not loaded on the vehicle in issue, from the registered place of business of the supplier M/s A.K. Enterprises. Rather, they were loaded from another place described as Falakata. They were to be delivered at New Delhi on further telephonic instructions to be received by the driver/person in-charge of the vehicle in question. At the end of the recipient, the registration of the petitioner has been suspended, although during pendency of this writ petition. Therefore, the action taken by the State authorities is described to be wholly valid.

13. Having heard learned counsel for the parties and having perused the record, at the outset, we may clarify that we do not intend to test the constitutional validity of any of the provisions of any statutory law. For the purpose of the instant case and the two issues framed above, it is accepted that the State legislatures have competence to introduce reasonable restrictions to free trade, guaranteed under Article 301 of the Constitution. To that proposition, there is no quarrel. In fact, that proposition may be an absolute truth in the scheme of the constitutional law of the land. What, therefore, requires our consideration is that if the legislations relied by the parties provide for reasonable restrictions as may confer the GST authorities of the State of Uttar Pradesh, the jurisdiction to venture into an enquiry and to take consequential actions to detain/confiscate goods and/or to impose penalty on transactions of inter-state trade between two other States, where goods may originate in one State (here West Bengal), and may be meant for supply/receipt in another State (here New Delhi).

14. Thus, at present, we are not concerned with the inter-state transportation of goods where the supply of goods may originate or terminate in the State of Uttar Pradesh. The enquiry is confined to transaction of inter-state trades using the State of Uttar Pradesh as a transit State, only.

15. Section 68 of the State Act and the Central Act are *pari materia*, to each other. For ready reference, the said provision of law reads as below:-

*"**68. Inspection of goods in movement.***

(1) The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

(2) The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.

(3) Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods."

(emphasis supplied)

16. Section 129 of the State Act and the Central Act are also *pari materia*. It reads as below:-

"129. Detention, 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 seized without serving an order of detention or seizure on the person transporting the goods.

[xxx]

(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).]

(4) [No penalty] shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.

(5) On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.

(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):

PROVIDED that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:

PROVIDED FURTHER that where the detained or seized goods are

perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.]"

(emphasis supplied)

17. Thus, reasonable restriction has been imposed, both by the Parliament and the State legislature, obligating documents as prescribed, to accompany the goods, during their movement.

18. Insofar as the IGST Act is concerned, the levy of tax is created under Section 5 of the said Act. Section 5(1) of the IGST Act reads as below:-

"5. Levy and collection

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption [and undenatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption], on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:

PROVIDED that the integrated tax on goods [other than the goods as may be notified by the Government on the recommendations of the Council] imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 (51 of 1975) on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962 (52 of 1962)."

(emphasis supplied)

19. Further, inter-state supply has been described under Section 7 of the IGST Act. Section 7(1) of the said Act reads as below:-

"7. ***Inter-State supply***

(1) Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are-in-

(a) two different States;

(b) two different Union territories; or

(c) a State and a Union territory,

shall be treated as a supply of goods in the course of inter-State trade or commerce."

(emphasis supplied)

20. Also, under Section 10 of the IGST Act, place of supply of goods has been described. Relevant to us, the said provision reads as below:-

"10. ***Place of supply of goods other than supply of goods imported into, or exported from India***

(1) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,-

(a) where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;

(b) where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;

(c) where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient,

[(ca) where the supply of goods is made to a person other than a registered person, the place of supply shall, notwithstanding anything contrary contained in clause (a) (a) or clause (c), be the location as per

the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice.

Explanation: For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person;]

(d) where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;

(e) where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.

(2) Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed."

(emphasis supplied)

21. Then, by way of prescriptions made, to give effect to the above noted provisions of the principal legislation, Rules 138A, 138B and 138C of the Rules framed under the State Act and the Central Act, read as below:-

"138A. Documents and devices to be carried by a person in-charge of a conveyance

(1) The person in-charge of a conveyance shall carry-

(a) the invoice or bill of supply or delivery challan, as the case may be; and

(b) a copy of the e-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

(2) A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in FORM GST INV-1 and produce the same for verification by the

proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.

(3) Where the registered person uploads the invoice under sub-rule (2), the information in Part A of FORM GST EWB-01 shall be auto-populated by the common portal on the basis of the information furnished in FORM GST INV-1.

(4) The Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.

(5) Notwithstanding anything contained in clause (b) of sub-rule (1), where circumstances so warrant, the Commissioner may, by notification, require the person in-charge of the conveyance to carry the following documents instead of the e-way bill-

(a) tax invoice or bill of supply or bill of entry; or

(b) a delivery challan, where the goods are transported for reasons other than by way of supply.

138B. Verification of documents and conveyances

(1) The Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intra-State movement of goods.

(2) The Commissioner shall get Radio Frequency Identification Device readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.

(3) The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer

empowered by him in this behalf:

PROVIDED that on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

138C. Inspection and verification of goods

(1) A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of FORM GST EWB-03 within twenty-four hours of inspection and the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection.

(2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical (2) Where the physical verification of goods being transported on any conveyance has been verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently."

22. While Rule 138 provides for issuance of e-Way Bill for which there is no dispute between the parties, Rule 48(4) of the Central Rules and the State Rules, imposes another condition for issuance of e-Tax Invoice by such suppliers whose aggregate turnover for the preceding financial year exceeds Rs. 5 crores. At present, the revenue contends that the aggregate turnover of M/s A.K. Enterprises for the previous tax period exceeds Rs. 5 crores. Yet no e-Tax Invoice was issued by it. Therefore, the prescribed document was not accompanying the goods that were in transit through the State of Uttar Pradesh. For ready reference Rule 48(4) and 48(5) of the Central Rules, reads as below:-

*"**48. Manner of issuing invoice***

(1)...

(2)...

(3)...

(4) The invoice shall be prepared by such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in FORM GST INV-01 after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification:

[PROVIDED that the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of invoice under this sub-rule for a specified period, subject to such conditions and restrictions as may be specified in the said notification.]

(5) Every invoice issued by a person to whom sub-rule (4) applies in any manner other than the manner specified in the said sub-rule shall not be treated as an invoice.

(6)... "

23. There is also no dispute that by Section 20(xv) of the IGST Act, the provisions of Central GST Act has been made applicable, *mutatis mutandis*.

24. Before proceeding to consider the rival submissions, we may also take note of the provisions of Section 6 of the Central Act and the State Act as also Section 4 of the IGST Act. For ready reference, the provisions of Section 6 of the Central Act and the State Act read as below:-

"6. ***Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances***

(1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

(2) Subject to the conditions specified in the notification issued under sub-section (1),-

(a) where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax;

(b) where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject-matter, no proceedings shall be initiated by the proper officer under this Act on the same subject-matter.

(3) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act."

(emphasis supplied)

25. Also, Section 4 of the IGST Act reads as below:-

*"**4. Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances***

Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification, specify."

(emphasis supplied)

26. In the context of the statutory provisions noted above, in the first place, it is true that the Central Act and the State Act read with the Rules, prescribe the documents that must accompany a valid transaction of inter-

state supply of goods. It is equally true, though transaction of inter-state sale of any goods may involve two States excluding the transit State, such as the State of Uttar Pradesh, yet, on own force of law created by the statutory provisions, the GST Authorities of the transit State (here State of Uttar Pradesh), would be entitled to stop, inspect and conduct physical verification of goods in transit, even though no tax incidence may arise in that State. To that extent, the action taken by the GST authorities of State of Uttar Pradesh would be protected on the constitutional principle of 'reasonable restrictions'. That is also not an issue in the present case. The petitioners have not raised challenge to the fact that their goods in transit through the State of Uttar Pradesh, were stopped and checked by the GST authorities, of this State.

27. Then, the thrust of the submissions raised by the State, is based on the provisions of Section 6 of the State Act and the Central Act read with Section 4 of the IGST Act. Thus, the learned Additional Advocate General has strenuously urged that the authorities of the State GST Department of Uttar Pradesh, are cross-empowered, both under the Central Act and also by virtue of Section 4 of the IGST Act, to not only stop, inspect and physically verify the goods in transit, but also to impose penalty for any violation of the law including transportation without the goods being accompanied with prescribed documents.

28. Plainly, we find the submission of cross-empowerment is misconceived. Though that provision of law exists, and it must be given full play, the operation of that section and the scope of cross-empowerment arising thereunder must remain confined to transactions as may give rise to any tax liability under the State GST Act and/or under the Central GST Act, in that State. By way of example, in the present facts that cross-empowerment may arise in the State of West Bengal and also in the State of Delhi to which the transaction of inter-state sale of goods pertains. Further, by way of example, if M/s A.K. Enterprises is mapped to the Central GST authorities, in the State of West Bengal, that fact may itself not deprive the State GST authorities of the State of West Bengal, to proceed against M/s A.K. Enterprises with respect to a transaction in issue. Similarly, if the petitioner no. 1 is mapped to the State GST authorities in the State of Delhi, that may not itself deprive the

Central GST authorities in the State of Delhi, from proceeding against the petitioners. To that extent, and for that purpose, the statutory provision of cross-empowerment exists.

29. In the scheme of the GST laws, though harmony and synergy has been created in the legislative provisions, to provide for a homogeneous tax regime by allowing for *pari materia* legislations to arise, in all States, as are consistent to the Central Act, the cross-empowerment provision has been incorporated to cross-empower the authorities of the Union and the GST authorities of individual States - with respect to taxable transactions performed in such States. However, no cross-empowerment has been attempted or created under the GST laws between State GST authorities of all States.

30. The cross-empowerment is between the authorities of the Union and the individual States but not between authorities of two or more States. Thus, the State GST authorities of one State are not empowered or permitted to proceed against an assessee mapped to the State GST authority of another State. Such authority may only seek to act on the strength of cross-empowerment *viz-a-viz* an assessee falling in its territorial jurisdiction, but mapped to the central GST authority, in that State, *viz-a-viz* transactions in that State.

31. By virtue of Section 4 of the IGST Act, no different intent or purpose arises. In fact, it makes plain the above discussed position in law. Thus, with respect to inter-state trade, the IGST Act provides for cross-empowerment between the State GST authorities and the Central GST authorities, for the purpose of that transaction. The purpose being defined under section 5 of the IGST Act - to levy tax on inter-state supplies of goods, and inter-state supply of goods being self-defined under section 7 of the IGST Act with further provision of section 10 describing the place of supply of goods, the levy event under the IGST Act may not arise in a transit State, such as U.P., in the transit State. We may hasten to clarify that we are not discussing any fact issue where the revenue may allege, arising from individual facts of particular cases, that a transaction of inter-state sale/supply has been performed in the transit State, occasioned by any circumstance not disclosed in the documents such as the Tax Invoice or the e-Way Bill. Those cases would stand on a completely different

footing. They may be tested on their own merits.

32. Thus, it is material, that in the course of transit of goods through the State of U.P., no levy may arise under the IGST Act, in U.P. For the reasons noted above and in the face of the categorical statutory provisions extracted above, no event may ever be experienced in a transit State, to allow for such a levy to arise.

33. In that light, Rule 138A, 138B and 138C may be examined. As opined above, by way of enforcement of a regulatory measure, the State GST authorities of a transit State may be well within their jurisdiction - to stop the conveyance, inspect and detain the goods and also physically verify the same as also the documents, even though such goods were in the course of transit through the State of U.P. Had the e-Tax Invoice accompanied the goods, all suspicions or doubts would have stood erased. However, for reason of absence of e-Tax Invoice, the State GST authority may not be faulted for having checked (on the Common Portal), the status of M/s AK Enterprise. Having discovered that the said registered person may have achieved turnover in excess of Rs.5 crores in the previous financial year, deficiency of e-Tax Invoice may have been rightly noted. Upto that point, we find no fault with the State GST authorities.

34. The fault lies in the consequential action taken. To the extent, it never came to be alleged either that goods different from the goods described in the Tax Invoice and the e-Way Bill were being transported by the petitioner, or that the goods being transported, were meant for supply inside the State of U.P., no levy of IGST or State GST or Central GST, would ever arise inside the State of U.P. It is also not the case that the Tax Invoice produced by the petitioner is a bogus document. True as it is, that the prescribed document may have been the e-Tax Invoice. However, that issue may be conclusively dealt with and decided not by the State GST authorities functioning inside the State of Uttar Pradesh but by the competent authority in the State of West Bengal, where the supplier dealer is registered. Therefore, the only action that may be permissible is - due information of the deficiency noticed by the State GST authority (inside the State of U.P.), may have been communicated to the competent authority in the State of West Bengal. However, after noting and reporting that deficiency, the goods ought to have been allowed to complete their

journey, by passing through the State of U.P., without and further proceeding to detain, confiscate or impose penalty.

35. Section 129 of the State Act and the Central Acts, does not make any difference either. Primarily, it applies to 'transport' of any goods in transit, involving transaction, that may give rise to tax liability under the State Act or the Central Act. In transactions of inter-state trade, the 'transit state' such as Uttar Pradesh here, may draw jurisdiction if either the place of origin of the goods or their destination, outside the State of U.P., is doubted, by the State GST authorities. In such facts, absence of cross-empowerment, notwithstanding, those authorities may draw jurisdiction, independently. However, that enquiry would be then premised on the origin or destination of goods or both being inside the State of U.P. Here, on the contrary, it is an admitted fact that the goods originated from and are destined to a place, both outside U.P. It is so, because if there is no amount of "tax payable" on such goods (in the State of U.P.), there may not arise any levy of penalty inside the State of U.P. In absence of any allegation or finding of goods being different, and in absence of any doubt as to the e-Way Bill, it is undoubted that the goods originated from the State of West Bengal and were meant for supply in the State of Delhi. In absence of the levy provision (under IGST Act), being applicable to such transaction, (on admitted facts), no tax may become payable in the State of U.P. In **J.K. Synthetics Ltd. Vs. Commercial Taxes Officer, (1994) 4 SCC 276**, the Supreme Court observed as under:-

> *"17. Let us look at the question from a slightly different angle. Section 7(1) enjoins on every dealer that he shall furnish prescribed returns for the prescribed period within the prescribed time to the assessing authority. By the proviso the time can be extended by not more than 15 days. The requirement of Section 7(1) is undoubtedly a statutory requirement. The prescribed return must be accompanied by a receipt evidencing the deposit of full amount of 'tax due' in the State Government on the basis of the return. That is the requirement of Section 7(2). Section 7(2-A), no doubt, permits payment of tax at shorter intervals but the ultimate requirement is deposit of the full amount of 'tax due' shown in the return. When Section 11-B(a) uses the expression "tax payable under sub-sections (2) and (2-A) of Section 7", that must be understood in the*

context of the aforesaid expressions employed in the two sub-sections. Therefore, the expression 'tax payable' under the said two sub-sections is the full amount of tax due and 'tax due' is that amount which becomes due ex hypothesi on the turnover and taxable turnover "shown in or based on the return". The word 'payable' is a descriptive word, which ordinarily means "that which must be paid or is due, or may be paid" but its correct meaning can only be determined if the context in which it is used is kept in view. The word has been frequently understood to mean that which may, can or should be paid and is held equivalent to 'due'. Therefore, the conjoint reading of Sections 7(1), (2) and (2-A) and 11-B of the Act leaves no room for doubt that the expression 'tax payable' in Section 11-B can only mean the full amount of tax which becomes due under sub-sections (2) and (2-A) of the Act when assessed on the basis of the information regarding turnover and taxable turnover furnished or shown in the return. Therefore, so long as the assessee pays the tax which according to him is due on the basis of information supplied in the return filed by him, there would be no default on his part to meet his statutory obligation under Section 7 of the Act and, therefore, it would be difficult to hold that the 'tax payable' by him 'is not paid' to visit him with the liability to pay interest under clause (a) of Section 11-B. It would be a different matter if the return is not approved by the authority but that is not the case here. It is difficult on the plain language of the section to hold that the law envisages the assessee to predicate the final assessment and expect him to pay the tax on that basis to avoid the liability to pay interest. That would be asking him to do the near impossible."

(emphasis supplied)

36. There are other reasons to reach this conclusion as well. First, if we were to allow State GST authorities of a transit State to do more than we are permitting under this order, it may lead to a situation where the goods that begin their journey say in the State of Kerala and are meant to be supplied in Jammu and Kashmir, may traverse the length and breadth of the country through the territories of different constituent States of the Union and be exposed to repeated penalties, by the State GST authorities of all or many such States though it may not be disputed that the

transaction were performed in the State of Kerala for supply of goods in Jammu and Kashmir, in entirety. That would be a gross violation of the constitutional protection guaranteed under Article 301 of the Constitution of India. Unless the element of a levy of a tax in the State (where action is proposed to be taken), is established, such permission may never be constitutional, by way of enforcement of a regulatory law.

37. Also, we are not in a position to allow the purchaser to be prejudiced for no fault. Issuance of e-Tax Invoice is linked to turnover. That fact is in the special knowledge of the supplier. The purchase/recipient may neither have the means, nor he may be burdened to enquire about the same, before transacting a purchase. That may be a wholly unreasonable burden cast on the recipient/purchaser. To the extent the physical Tax Invoice is not bogus and its issuance is not doubted, the recipient/purchaser may not be penalised, for no fault.

38. In the decisions of Supreme Court in **M/s Armour Security (supra),** following issues arose before the Supreme Court :

> *"I. Whether issuance of summons can be regarded as "initiation of proceedings" within the meaning of Section 6(2)(b) of the CGST Act."*

39. Approving the co-ordinate bench decision of this Court, in **G.K. Trading v. Union of India & Ors. 2020 SCC OnLine All 1907,** the Supreme Court discussed the issue of cross-empowerment under section 6 of the CGST laws, as below :

> "***b. Framework of single interface and cross-empowerment of powers under Section 6 of the CGST Act***
>
> *34. The unique scheme and framework of the Goods and Services Tax regime envisages two distinct concepts at its heart, the concept of a "single interface" as-well as the concept of "cross-empowerment". The former relates to doing away of dual administrative control over the collection as-well as assessment of tax returns by tax payers, that had existed previously, in the erstwhile scheme of indirect taxes in the form of value added tax or VAT. Whereas, the latter, pertains empowering both the Central and State tax administrations to simultaneously undertake*

enforcement actions against a tax-payer.

……

39. At the 9th GST Council Meeting held on 16.01.2017, the Chairman of the Central Board of Excise & Customs stated that the States had agreed that both the Central and State tax administrations shall have jurisdiction over the entire taxpayer base. He further emphasized that neither administration should be completely excluded from any segment of the value chain, so as to ensure proper checks and balances. Towards the conclusion of the discussion on the agenda of cross-empowerment, the Chairman noted that enforcement functions would remain common to both administrations. The Council accordingly agreed that both Central and State tax authorities would be empowered to undertake intelligence-based enforcement actions across the entire value chain of a taxpayer.

40. With a view to ensure single interface under the GST regime and to avoid dual control over taxpayers, the GST Council, in its 9th Meeting, resolved that a clear division of taxpayers between the Central and State tax administrations be effected for all administrative purposes. Simultaneously, the Council recognized the necessity of empowering both the Central and State tax administrations to act on intelligence-based enforcement actions across the entire value chain, regardless of administrative allocation. This dual empowerment was intended to maintain robust enforcement capabilities and prevent evasion, while preserving the administrative clarity of the single interface system.

41. To ensure cross-empowerment across the CGST, SGST, and IGST Acts, Section 6 was incorporated into the statute. Sub-section (1) of Section 6 authorizes the officers appointed under the SGST Act or the Union Territory Goods and Services Tax Act (UTGST) to be "proper officer" for the purposes of the CGST Act. The State GST and Union Territory GST Acts also have similar provisions authorizing officers appointed under the CGST Act to be proper officers for the purposes of the respective State enactments. The provision reads thus:

"6. Authorisation of officers of State tax or Union territory tax as proper

officer in certain circumstances.—(1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

(2) Subject to the conditions specified in the notification issued under sub-section (1),—

(a) where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax;

(b) where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

(3) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act."

…..

44. In furtherance of the Council's decision regarding the administrative division of taxpayer base, the Circular No. 01/2017 dated 20.09.2017 was issued, laying down the framework for allocation of taxpayer between the Centre and the States.

"Subject: Guidelines for division of taxpayer base between the Centre and States to ensure Single Interface under GST - regarding Based on the decisions taken in the 9th Meeting of the GST Council held on 16 January, 2017 and 21st Meeting of the GST Council held on 9 September,

2017, the following criteria should be followed for the division of taxpayer base between the Centre and the States to ensure single interface:

i. Of the total number of taxpayers below Rs. 1.5 crore turnover, all administrative control over 90% of the taxpayers shall vest with the state tax administration and 10% with the Central tax administration; the state

ii. In respect of the total number of taxpayers above Rs. 1.5 crore turnover, all administrative control shall be divided equally in the ratio of 50% each for the Central and the State tax administration;

iii. The division of taxpayers in each State shall be done by computer at the State level based on stratified random sampling and could also take into account the geographical location and type of the taxpayers, as may be mutually agreed;[…]"

45. While the latter decision that both the Central and State tax administrations shall have power to take intelligence-based enforcement action in respect of the entire value chain is reflected in the Circular dated 05.10.2018, as reproduced above, and Clarification F. No. CBEC-20/10/07/2019-GST dated 22.06.2020 by the Central Board of Indirect Taxes, GST Policy Wing, which reads thus:

"To
The Principal Director General,
Directorate Generalof GST Intelligence,
2nd Floor. Wing- VI, West Block- VIII R.K. Puram, New Delhi- 110066
Sir,
Subject: Reference form DGGI on cross-empowerment under GST. reg.
I am directed to refer to DGGI letter F.No.574/CE/66/2020/Inv./15308 dated 26.05.2020 on the issues related to cross-empowerment of officers in terms of provisions of section 6 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the CGST Act").
2. Issue raised in the reference is whether intelligence based enforcement actions initiated by the Central Tax officers against those taxpayers which are assigned to the State Tax administration gets covered under

section 6(1) of the CGST Act and the corresponding provisions of the SGST/UTGST Acts or whether a specific notification is required to be issued for cross-empowerment on the same lines as notification No. 39/2017-CT dated 13.10.2017 authorizing the State Officers for the purpose or refunds under section 54 and 55 of the CGST Act. 3.1 The issue has been examined in the light of relevant legal provisions under the CGST Act, 2017. It is observed that Section 6 of the CGST Act provides for cross-empowerment of State Tax officers and Central Tax officers and reads as:-

"6. (1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes- of this Act, Subject to such conditions as the Government shall, on the recommendations of the Council, by Notification specify.

3.2. Thus in terms of sub-section (1) of section 6 of the CGST Act and sub-section (1) of section 6 of the respective State GST Acts respective State Tax officers and the Central Tax officers respectively are authorised to be the proper officers for the purposes of respective Acts and no separate notification is required for exercising the said powers in this case by the Central Tax Officers under the provisions of the State GST Act. It is noteworthy in this context that the registered person in GST are registered under both the CGST Act and the respective SGST/UTGST Act.

3.3 The confusion seems to be arising from the fact that, the said sub-section provides for notification by the Government if such cross-empowerment is to be subjected to conditions. It means that notification would be required only if any conditions are to be imposed. For example, Notification No. 39/2017-CT dated 13.10.2017 restricts powers of the State Tax officers for the purposes of refund and they have been specified as the proper officers only under section 54 and 55 of the CGST Act and not under rule 96 of the CGST Rules, 2017 (IGST Refund on exports).

If no notification is issued to impose any condition, it means that the officers of State and Centre have been appointed as proper officer for all the purpose of the CGST Act and SGST Acts.

4. Further, it may kindly be noted that a notification under section 6(1) of

the CGST Act would be part of subordinate legislation which instead of empowering the officer under the Act, can only be used to impose conditions on the powers given to the officers by the section. In the absence or any such conditions, the power of Cross- empowerment under section 6(1) of the CGST Act is absolute and not conditional.

Yours faithfully,

(Sumit Bhatia)

"Deputy Commissioner (GST)

……

47. The concept of "cross-empowerment" has been retained within the GST framework in order to maintain a robust enforcement mechanism and prevent any scope of evasion of taxes. For this purpose, both the Central and State tax administrations have been armed with the power to initiate intelligence-based enforcement action i.e., an action that is predicated on information of tax evasion emanating from the value chain or chain of transactions rather than from any administrative scrutiny by way of audit of accounts or returns.

48. Such gathering of intelligence is intended to be a non-intrusive exercise. The Department relies on data analytics, validation with third-party data, and other methods to collect actionable intelligence via analytical tools, human intelligence, modus operandi alerts as well as information through past detections. Taxpayers must be mindful that intelligence about evasion of tax cannot be procured from them through issuance summons or other non-descript letters and correspondence.

49. Any action arising from the audit of accounts or detailed scrutiny of returns falls within the first category, and proceedings in such cases are to be initiated by the tax administration to which the taxpayer is assigned. In contrast, when proceedings are based on intelligence relating to tax evasion, they can be initiated by either the Central or the State tax administration.

50. To put simply, Section 6 of the CGST Act provides for the cross-empowerment of powers between the Central and State tax

administrations. However, for the purpose of administrative convenience, the GST Council has sought to divide the taxpayer base between the two administrations through a circular. Nonetheless, with respect to intelligence-based enforcement actions, both the Central and the State tax authorities are empowered to act across the entire value chain."

40. Construction of the cross-empowerment provision made by the Supreme Court recognises existence of cross-empowerment between two different GST authorities, one working under the State Government and the other working under the Central Government, over the same tax payer. To that extent, neither the issue of cross-empowerment between two State Governments was considered nor it may arise in the statutory scheme discussed above. To that extent, we do not find our opinion inconsistent to the opinion of the Supreme Court.

41. Insofar as **M/s ASP Traders (supra)** is concerned, facts were different. In that case though the goods were in transit through the State of U.P., from Karnataka to Delhi, out of 278 bags dispatched from Karnataka, seven were found missing. It resulted in shortfall of about 500 kgs. Also, genuineness of the recipient firm was disbelieved and that of the consignor was doubted. In those facts the only issue that fell for consideration before the Supreme Court was with respect to generation of GST MOV 09 that may give rise to a right of appeal to the aggrieved person. The Supreme Court reasoned - merely because the assesse in that case had deposited the penalty amount to obtain release of the goods, it did not absolve the statutory authorities to pass a reasoned order on Form GST MOV 09 and to upload the corresponding summary on Form GST DRC 07.

42. However, the issue of validity of the action of the State GST authorities in detaining the goods while they were in transit through the State of U.P., neither arose in those facts (as noted above), nor the Supreme Court had the occasion to consider the said issue. Plainly, the said decision is wholly distinguishable on facts.

43. We are aware, in **Golden Traders and Ors. V. Deputy Asst. State Tax and Ors., 2026 SCC OnLine (AP) 803,** the Andhra Pradesh High

Court has taken a view similar to ours. Paragraph 28, 29, 36 and 37 read as below :

> *"28. The purpose of Section 129 and 130, is to ensure compliance of the provisions of the GST Acts and for checking evasion of tax. In the normal course, evasion of tax, on intra state sales, would result in non payment of taxes, which are rightfully due to that State and the Union. Thus, the State or Central authority, assigned the functions of a "proper officer", would be recovering the penalty and other sums demanded, under these provisions, as the rightful dues of that State and the Union. In the case of IGST, no part of the taxes are due, to any intermediary state, through which the goods are passing. In such a situation, can the intermediary state, under Section 129 or 130, levy and collect penalties or fines?*
>
> *29. An illustration is necessary, to understand this situation. There is an inter-state supply of goods, commencing from State A to State C. These goods have to move through State B, to reach State C from State A. The State officer, of State B, exercising powers under Section 129 or 130, seizes and subsequently confiscates the goods moving through State B and auctions the same or the owner of the goods pays a penalty or fine and gets his goods released. In such a case, State B is collecting penalties and fines or appropriating the sale price of the goods, in relation to transactions which are not taxable in State B. It may also be noted that there is no provision, under the GST Acts, for reimbursing the State share of penalty and/or fine, falling to State A or State C, collected by State B. Thus, amounts rightfully due to State A or State C are being appropriated, by State B. It is our view that Section 129 or 130 cannot be pressed to vindicate such appropriation.*
>
> ……
>
> *36. We are also alive to the fact that, the proper officer, under the APGST Act, at the time of intercepting the conveyance or vehicle, would not be aware whether the consignment, is under the IGST Act or any of the other GST Acts, until the vehicle is stopped and the documents are verified. In a case where it is found that the consignment relates to an inter State supply, state officer would have to permit the vehicle to continue it's journey. However, if any discrepancies are found, it would be open to the*

state officer to forward the said discrepancies to the proper officer of the consignee as well as the consignor. If it is found that, the consignment is not accompanied by necessary way bills, it would be open to the state officer, to presume that the consignment is an intra state supply, unless that presumption is rebutted,

37. Accordingly, it would be appropriate to hold as follows:

A. An officer, appointed under the APGST Act, would be cross empowered, to exercise jurisdiction under the CGST or IGST Act, in relation to a tax payer, when such tax payer has been administratively allotted to the State and the State officer is the "proper officer", assigned to discharge the said function, by the Chief Commissioner and vice versa for Central officers.

B. A "proper officer' appointed under the APGST Act, and assigned the functions, under section 129 and/or 130, of the APGST Act, can discharge such functions, under the CGST Act also, in relation to intra state sales.

C. A "proper officer' appointed under the APGST Act, and assigned the functions, under section 129 and/or 130, of the APGST Act, can discharge such functions, under the IGST Act also, in relation to inter-state sales, only when the State of Andhra Pradesh is entitled to an allocation of a share of the tax, under section 17 of the IGST Act, in relation to such transaction.

D. A "proper officer' appointed under the APGST Act, and assigned the functions, under section 129 and/or 130, of the APGST Act, can not discharge such functions, under the IGST Act, in relation to inter state sales, which originate outside the State and culminate outside the State.

E. In the event of any discrepancies found, in any movement of goods, under the IGST Act, it would be open to the State officer, to forward the said discrepancies to the proper officer of the consignee and the proper officer of the consignor, to take further action."

(emphasis supplied)

44. To the extent, the transaction for supply of goods originates and is to terminate outside the State of U.P., involving zero tax incidence in the State of U.P., discrepancies noticed and doubts expressed - of e-Tax

Invoice not issued; purchases made from unregistered persons (by the supplier), subsequent suspension of registration of the petitioner etc., are extraneous to the core issue.

45. Consequentially, we answer the two issued framed by us as below:-

(a) to the extent, the respondent GST authorities of the State of U.P. do not dispute that the goods/Areca nuts originated from the State of West Bengal and were being transported to the State of Delhi, as evidenced by a valid e-Way Bill and physical Tax Invoice, to the extent there is not an iota of allegation, either that the goods were different or that they either originated from or were meant for consumption inside the State of U.P. or that the documents produced are bogus, no jurisdiction arose to those authorities to penalise those goods, U.P. being a pure transit State.

(b) in view of complete lack of a foundation - to levy any tax in the State of U.P., on such transaction, on admitted facts, the lack of e-Tax Invoice remains an unexplained anomaly noticed by the GST authorities of the State of U.P., causing no tax effect in the State of U.P. At most, the same may be marked on the documents, produced before those authorities and such fact be communicated to the concerned authorities in the State of West Bengal and Delhi.

46. In view of the above, the writ petitions are **allowed.** For the reasons noted above, the goods and vehicles be released in favour of the petitioners, forthwith. The individual penalty orders passed against the petitioners are **quashed.**

47. No order as to costs.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

May 14, 2026
Bhanu/#Vikram/-/Shiv