APHC010555202025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3543]
(Special Original Jurisdiction)

THURSDAY, THE 24th DAY OF SEPTEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 28617 OF 2025

Between:

1. M/S PVM TRADERS, REP. BY ITS PROPRIETOR MOHANAN P V S/O. KRISHNAN, AGED ABOUT 65 YEARS, R/O. PATTERIVALAPPIL, KANHIYUR, MOOKUTHALA NANNAMUKKY, MOOKKUTHALA, MALAPPURAM, KERALA, 679574

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY REVENUE (CT) DEPARTMENT, SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT, A.P.
2. ASSISTANT COMMISSIONER IIST, ANANTHAPURAMU-LL CIRCLE.
3. DEPUTY ASSISTANT COMMISSIONER OF STATE TAX, ANATHAPURAMU CIRCLE-LL

...RESPONDENT(S):

Counsel for the Petitioner:

1. P HEMACHANDRA

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX
2. GP FOR COMMERCIAL TAX

The Court made the following ORDER: ***(Per NJS,J)***

Heard the learned counsel for the petitioner. Also heard Mr.S.A.V.Sai Kumar, learned Assistant Government Pleader for Commercial Taxes.

2) Present Writ Petition is filed seeking to quash the order of confiscation in MOV-11, dated 03.10.2025 along with notice of confiscation issued in MOV-10 dated 29.08.2025 and for a consequential direction to release the goods and consignment detained by respondent authorities.

3) Brief facts culled out from the affidavit for disposal of the case may stated thus –

4) On 19.08.2025 the petitioner supplied fruits from its place of business i.e., Malappuram, Kerala to Nagpur, Maharashtra. The vehicle carrying the goods was intercepted by the 3rd respondent on 20.08.2025 at Gooti, Andhra Pradesh. Alleging mismatch of documents with the goods, 3rd respondent detained the same by issuing MOV-01, dated 20.08.2025 to the transporter. The 3rd respondent also issued order of detention under Section 129(1) of APGST Act, 2017 in Form GST MOV-06 and detained the goods for alleged mismatch with the documents.

5) Learned counsel for the petitioner, *inter alia* submitted that the 3rd respondent without issuing notice let alone under Section 129(3) of the Act proceeded to pass order under Section 130 of the Act in absolute

disregard to the mandate prescribed under the statute. He submits that the goods were intercepted while in transit on 20.08.2025, that the proper officer had issued order of detention dated 23.08.2025 in MOV-06 and on passing of the said order, the owner of the goods or the owner of the conveyance secure a right under Section 129 to get the goods released. He submits that the proper officer, in the present case proceeded to issue a notice of confiscation in MOV-10 and thus, the statutory right of owner of the goods or non-owner to get the goods released on compliance with the conditions specified in Section 129(1)(a) to (c) was nullified and as such entire confiscation proceedings rendered illegal. He submits that at the first instance, the petitioner was constrained to file W.P.No.26670 of 2025 in the said circumstances and the same was disposed of by an order dated 24.09.2025 with a direction to the 3rd respondent to indicate to the petitioner within two days, whether the 3rd respondent intends to continue with the proceedings under Section 129 or is proposing to take up proceedings under Section 130 by closing the proceedings under Section 129 of the CGST Act. Surprisingly, the 3rd respondent instead of complying with the said directions of this Court, issued an order under Section 130 of the Act and that the same amounts to Contempt of Court. Be that as it may.

6) The main contention advanced is that once the proceedings have been initiated under Section 129 of the Act, the proper officer cannot

convert the same into Section 130 proceedings without completing the proceedings under Section 129 of CGST/APGST Act. Further, that Section 130 of CGST Act specifically provides that no order for confiscation of goods or conveyance or for imposition of penalty shall be made without giving the 'person' an opportunity of being heard. While stating that 'person' in the said context would be the person interested in the goods as also the conveyance, he contends that opportunity of being heard, therefore, has to be afforded to both the owner of the goods as also the owner of the conveyance. He submits that in the absence of notice under Section 130 of the Act to the petitioner/supplier of goods, the action of respondent No.3 in passing order of confiscation under Section 130 of the GST Act is illegal, arbitrary, violative of provisions of the Act and accordingly and accordingly liable to be set aside.

7) Though the learned counsel for the petitioner seeks to advance further arguments, this Court deems it not necessary to examine the matter in detail. Suffice to state that it is fairly mentioned by learned counsel for the respondent that the issue is covered by a decision of co-ordinate Bench of this Court dated 01.04.2026 in W.P.No.541 of 2026 and Batch. In the said cases, the officers appointed under APGST at various check posts in the State of Andhra Pradesh, like in the present case had intercepted the consignments moving in the course of inter-state trade from a point of origin, which is outside the State of Andhra

Pradesh, to a destination, which is also outside the State of Andhra Pradesh. After such interception, the proceedings have been initiated, initially under Section 129 of the GST Act and in some cases, the proceedings continued under Section 130 of GST Act. Setting out the circumstances that lead to Constitutional amendment and introduction of Articles 246A and 269A of the Constitution of India, the Division Bench analyzed in detail, the jurisdiction of officers to exercise power under Section 129 and 130 of the Act *vis-a-vis* Section 4 of IGST Act. Reference was also made to decisions of various High Courts. It is contextual to reproduce para 28 and 29 of the order, which reads thus:

> "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?
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> 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."

8) Learned Division Bench cited the decisions of different High Courts, but agreed with the view of High Court of Gujarat in ***Panchi Traders Vs State of Gujarat***[1]***.*** Relevant paras in this regard may profitably be extracted hereunder:

> 32. The Hon'ble High Court of Gujarat in Panchi Traders Vs. State of Gujarat, had held as follows:
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> > 63. Thus, in case, there are first degree minor aberrations in the documents such as the difference in value shown in the e-way bill and the delivery challan, minor error in vehicle number, etc, as referred in the Circular dated 14th September, 2018, the proper officer cannot seize the goods and conveyance. If the violation is of second degree, inviting contravention of the provision of Act or Rule, where the element of intention of evasion to pay the tax is not involved, the person/dealer shall be allowed to resort to remedy of paying penalty as specified under Section 129 of the CGST Act, and on payment of amount referred in sub-section(1), all proceedings in respect of the notice specified in sub-section(3) stands concluded. In case, the amount is not paid, such goods are liable to be sold or disposed as per provisions of subsection (6). In view of the foregoing clarification, only in case of blatant violation or contravention of provisions of the Act or Rules, which has direct nexus with the intention to evade payment of tax, the confiscation of goods and conveyance, during transit can be resorted. 64. In order to invoke the severe action of confiscation of goods and conveyance, during transit, the contravention/infringement has to

[1] 2025 (12) TMI 941

> be of the highest degree, such as absence of documents or fake or forged documents, absence of details of dealer, forged e-way bills, a complete deceptive/divergence/mismatch of goods, fake registration, etc. which apparently establishes the 'intention to evade payment of tax'. We may also clarify that the proper officer cannot venture into the assessment and valuation of goods at the time of interception of vehicle, and resort to seizure and confiscation of goods and conveyance by resorting to the entries in portal, and digging out the evasion of tax, etc of third parties.
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> 33. We are in respectful agreement with the above views, that questions of seizure or confiscation, would not arise before a proper officer, under Section 129 or 130, even in the normal course, on grounds of variation in valuation etc., Such powers can be exercised, only if the conditions, set out in the judgment of the Hon'ble High Court of Gujarat, are satisfied.

9) The learned Division Bench ultimately disposed of the Writ Petitions by recording conclusions in para Nos.36 and 37, which reads as follows:

> "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 interstate supply, the 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.
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> 37. Accordingly, it would be appropriate to hold as follows:
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> 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 officerǁ, 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.”

10) In the light of the above illustrious judgment, which is applicable to the facts of the case, Writ Petition deserves to be allowed.

11) At this juncture, learned counsel for the petitioner has drawn the attention to interim order dated 15.10.2025 of this Court, wherein the impugned confiscation order was suspended and a direction to release the detained goods was issued, subject to the payment of 100% of tax demanded and 25% of the value of the goods.

12) In the light of the aforesaid view taken by this Court that the matter is covered by decision referred to supra, the impugned orders are set aside. The respondent Nos. 2 and 3 shall refund the amounts paid by the petitioner, if any, in compliance with the interim order dated 15.10.2025, within a period of two (02) weeks from the date of receipt of a copy of this Order.

13) It is needless to observe that it is open to the respondents to forward the records/documents to the proper/competent officer for taking necessary action, in respect of the subject matter transaction, in accordance with law.

14) Accordingly, the Writ Petition is allowed. No order as to costs.

15) Consequently, the Miscellaneous Applications pending, if any, shall stand closed.

NINALA JAYASURYA,J

T.C.D.SEKHAR,J

Date:24.09.2026
Ssv

Whether the order is:
Speaking Yes/No / Reasoned Yes/No
Reportable Yes/No / Non-Reportable Yes/No

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

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