IN THE HIGH COURT AT CALCUTTA

(Constitutional Writ Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Aryak Dutt

WPA No. 3350 of 2026

Permender Singh

Vs.

Union of India & Ors.

For the Petitioner : Mr. Sudhir Meheta, Sr. Adv.
Mr. A.K. Upadhyay, Adv.
Mr. Ashok Dey, Adv.
Ms. S. Banerjee, Adv.

For the Respondent State : Mr. Bijitesh Mukherjee, Adv.
Ms. Manasi Mukherjee, Adv.

For the Union of India : Mr. Sujit Bhunia, Adv.
Ms. Oisani Mukherjee, Adv.

Hearing Concluded On : 12.10.2026

Judgment Delivered On : 14.10.2026

Aryak Dutt, J.:

1. The petitioner owns two goods vehicles, being WB172949 and WB172944. He gives lorries on hire to transporters. On 9th July, 2025, he hired out both vehicles to Bhagwat Roadlines, a transporter. The vehicles were to carry MS Scrap from M/s. P. S. Enterprise, Guwahati, Assam (hereinafter referred to as "the Consignor") to M/s. Rudraksh Enterprises, Purnea, Bihar (hereinafter referred to as "the Consignee").

2. The goods moved under E-Tax Invoices No. PS/123/25-26 and PS/124/25-26, both dated 9th July, 2025. They were covered by E-Way Bills No. 871551432138 and 851551432286, valid up to 12th July, 2025, and by consignment notes issued by the transporter.

3. On 11th July, 2025, officers of the Bureau of Investigation (North Bengal), Headquarter, Siliguri intercepted both vehicles at Mohitnagar on NH-27, District Jalpaiguri. The drivers' statements were recorded in FORM GST MOV-01. An order for physical verification was issued in FORM GST MOV-02. Physical verification was carried out on 13th July, 2025 and recorded in FORM GST MOV-04.

4. The respondents checked the GST portal. They found that the supplier's registration had been suspended with effect from 10th July, 2025, after a notice in FORM GST REG-17 was issued that day. On 14th July, 2025, the respondents received a report from the CGST authorities at Guwahati, it stated that a visit on 12th July, 2025 had found the supplier non-functional at its declared principal place of business. On that basis, the respondents treated the tax invoices and e-way bills as invalid. They held that the movement of goods contravened Section 68 of the West Bengal Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the Act"), read with Rules 138 and 138A.

5. On 14th July, 2025, the second respondent detained both vehicles and the goods under Section 129(1) of the Act by orders in FORM GST MOV-06.

6. On 17th July, 2025, notices in FORM GST MOV-07 were issued in both cases, proposing penalty under Section 129(1)(a) and (b). The demand orders record that these notices were served on 17th July, 2025. The date of appearance was fixed on or before 24th July, 2025.

7. A petition, WP(C) No. 4700 of 2025 was filed before the Guwahati High Court and was subsequntly disposed of on 11th December, 2025. The order dated 30th July, 2025, cancelling the supplier's registration was set aside and the matter was remitted. As to the seizure, the Gauhati High Court recorded that the point was not pressed and only granted liberty to approach the appropriate authority. That Court did not stay the proceedings under Section 129 pending before the respondents.

8. On 15th January, 2026, the second respondent passed orders under Section 129(3) in FORM GST MOV-09. He confirmed penalty under Section 129(1)(b) of Rs. 12,67,640/- for vehicle WB172949 and Rs. 12,55,600/- for vehicle WB172944. Those orders are under challenge before me.

9. By an order dated 28th August, 2026, this Court called for a report from the State respondents. Respondent Nos. 2 and 3 have filed that report on affidavit, affirmed by the Assistant Commissioner of Revenue, Bureau of Investigation, North Bengal (HQ).

10. Learned Senior advocate appearing for the petitioner, made his principal submission on Section 129(3) of the Act. The provision requires the proper officer to serve a notice within seven days of detention and then pass an order within seven days of service. Here the notice was served on 17th July, 2025. The order therefore had to be passed by 24th July, 2025, but it was passed only on 15th January, 2026. He submitted that the demand is barred by limitation and the officer had no jurisdiction to pass it.

11. The Learned Senior Counsel appearing for the petitioner relied on a judgment by a Division Bench of the Patna High Court, ***Kedia Enterprises v. State of Bihar***, reported in ***2024 (90) G.S.T.L. 129 (Pat.)***. He further relied upon a judgment by a Division Bench of the Gujarat High Court, ***Khatu Enterprises v. State of Gujarat***, reported in ***(2025) 36 Centax 242 (Guj.)*** and another judgment by a Division Bench of the Tripura High Court, ***Satguru Impex v. State of Tripura***, reported in ***2022 (64) G.S.T.L. 214 (Tripura)***.

12. Learned Senior advocate submitted that the petitioner is only the owner of the vehicles. He had no role in preparing the invoices or e-way bills. The vehicles are hypothecated, are his

only source of livelihood, and have remained detained since July 2025.

13. Learned advocate for the State respondents relied on a report in the form of an affidavit affirmed on 1st October, 2026, by the Assistant Commissioner of Revenue, Bureau of Investigation, North Bengal (HQ), on behalf of respondent nos. 2 & 3. The report sets out the chronology of interception, detention, notice and demand. It then denies the petitioner's allegations generally, asserts that the writ petition is not maintainable and not bona fide, and prays for dismissal with costs.

14. The report gives no explanation for the gap of nearly six months between the date for appearance fixed in the MOV-07 notices and the demand orders. It does not refer to Section 129(3) at all.

15. No submission was made by the state to distinguish the decisions cited by the Learned Senior Advocate for the petitioner, and no contrary authority was placed before this Court.

16. The question that falls for consideration before this courtis whether the demand orders dated 15th January, 2026 were passed within the time fixed by Section 129(3) of the Act.

17. The sub-section to section 129(2) lays down two-time limits. The notice must issue within seven days of detention. The order must then be passed within seven days of service of that notice. The notices were issued within time. The orders were not. They were passed 175 days after the statutory period expired on 24th July, 2025. The orders are therefore barred by limitation and without jurisdiction.

18. The demand orders themselves give a reason for the delay. They state that considerable time elapsed after the MOV-07 notices "owing to the fact that the matter was sub-judice" before the Hon'ble Gauhati High Court.

19. The Gauhati proceedings were brought by the supplier. They were mainly about the suspension and cancellation of its GST registration. The petitioner herein was not a party therein.

20. No order of the Gauhati High Court stayed the proceedings under Section 129 before the respondents.

21. The period under Section 129(3) had already expired on 24th July, 2025.

22. A pending proceeding elsewhere does not stop a statutory period from running unless a competent court has ordered so.

23. In ***Kedia Enterprises (supra)***, the vehicle was detained on 30th March, 2024 and notice was served on 4th April, 2024. The time to reply ran up to 11th April, 2024 and the reply was filed on 12th April, 2024. The order was passed on 18th April, 2024. The Division Bench held that the authority ought to have passed the order on the date the reply was filed. Having delayed the matter, it had not followed the mandate of Section 129(3). The penalty order was set aside and refund of the amount paid was directed. There the Court held that "the limitation is clear and definite". In *Kedia Enterprises* the delay was about six days. Here it is 175 days.

24. In ***Khatu Enterprises (supra)***, the Division Bench of the Gujarat High Court considered Section 129(3) in detail. It held that the authority must issue a notice within seven days of

detention and pass an order within seven days of service. Non-compliance with those time limits was held to be fatal and to make the detention illegal.

25. In ***Satguru Impex (supra)***, the Division Bench of the Tripura High Court released a detained vehicle and goods. It held that the Revenue must act sensibly where the parties are genuine. Putting unnecessary obstacles in the way of the free flow of goods and vehicles hinders the economy of the State.

26. Learned advocate for the State respondents argued that the writ petition is not maintainable. An appeal under Section 107 of the Act is available. But an alternative remedy does not bar a writ petition where the impugned order was passed without jurisdiction.Relegating the petitioner to an appeal would serve no purpose

27. For these reasons, **W.P.A. No. 3350 of 2026 is allowed**. The two orders dated 15th January, 2026 in FORM GST MOV-09 issued by the second respondent are set aside and quashed as barred by limitation under Section 129(3) of the Act. Memo confirming penalty of Rs. 12,67,640/- for the vehicle

number WB172949 and Rs. 12,55,600/- for the vehicle number WB172944 are quashed.

28. The respondents shall release vehicle numbers WB172949 and WB172944 to the petitioner within seven days from the date of communication of this order without insisting on payment of any alleged duty.

29. This order will not prevent the respondents from taking proceedings, if any are otherwise permissible, against the supplier or the recipient of the goods.

30. There shall be no order as to costs.

(Aryak Dutt, J.)