

15.2.2022

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
WPA 297 of 2022**

ks
sl. 1

Precious Trade Link Private Limited & Anr.

Vs

Assistant Commissioner of State Tax under Bureau
of Investigation, North Bengal, Alipurduar Zone &
Ors.

Miss. Rita Chatterjee,

Mr. G. Jha,

Mr. Abhijat Das,

Mr. R. K. Jha

... For the Petitioners.

Mr. A. Roy, Ld. GP,

Mr. S. Saha,

Mr. Debasish Ghosh,

Mr. N. Chatterjee

... For the State.

In this writ petition, petitioners have challenged the impugned order dated 29th January, 2022 passed by the Deputy Commissioner of Revenue, State Tax, Bureau of Investigation, North Bengal, Alipurduar Zone/Respondent No.2 on the ground that the said impugned order is bad in law for the reasons that the petitioners being the owner of the goods in question, which has been detained without giving any opportunity of hearing to the petitioners under the relevant provision of Section 129 of the West Bengal Goods and Service Tax Act, 2017 and petitioners are agreeable to pay the amount of tax and penalty as provided under the relevant provision of Section 129 of the said Act.

In view of the submission made by the parties and taking into consideration that the petitioners claiming to be the owners of the goods in question, which has been detained, are ready and agreeable to pay the applicable tax and penalty as per amended provision of Section 129 of the said Act, I think it fit that the detained goods in question shall be released on making payment as per amended provision of Section 129(1) of the said Act and which is to be made by the petitioners within seven days from date and on receipt of such payment, authorities concerned shall release the detained goods in question within 72 hours from receipt of such payment and in the interest of justice and considering the fact that the petitioners being the owner of the detained goods in question could not get effective opportunity of hearing before passing of the impugned order on 29th January, 2022, the said impugned order dated 29th January, 2022 is set aside and remanded to the authority concerned to consider afresh and pass a reasoned and speaking order in accordance with law after giving an opportunity of hearing to the petitioners or its authorised representative. It is expected that the proceedings and fresh order would be passed by the authority concerned as expeditiously as possible.

It is clarified that the impugned order dated 29th January, 2022 has been set aside only on the ground of violation of principle of natural justice as petitioners being deprived the opportunity of hearing and not on the merits of the said order.

With these observations and directions, this writ petition, being WPA 297 of 2022 is disposed of.

SAG

(Md. Nizamuddin, J.)