

HIGH COURT AT CALCUTTA, JALPAIGURI CIRCUIT BENCH
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

RESERVED ON: 02.03.2026

DELIVERED ON: 17.04.2026

PRESENT:

THE HON'BLE MR. JUSTICE RAJARSHI BHARADWAJ

AND

THE HON'BLE MR. JUSTICE REETOBROTO KUMAR MITRA

M.A.T. 54 OF 2025

WITH

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JAGESWAR SAW

- VERSUS -

**DEPUTY COMMISSIONER OF REVENUE, STATE TAX, BUREAU
OF INVESTIGATION (NORTH BENGAL), ALIPURDUAR ZONE**

AND ORS.

Appearance:

Mr. Boudhayan Bhattacharyya, Adv.

Ms. Stuti Bansal, Adv.

Ms. Keya Kundu, Adv.

Ms. Chayna Kumari, Adv.



Ms. Ayantika Bhattacharyya, Adv.

..... for the Petitioner

Mr. Pretom Das, Adv.

Ms. Rima Sarkar, Adv.

..... for the State

Mr. Ajoy Kumar Singhania, Adv.

... ..for the U.O.I.

Reetobroto Kumar Mitra, J.:

1. This is an appeal from an order dated July 4, 2025, passed by the learned Single Judge of this Hon'ble Court dismissing WPA No. 635 of 2024.
2. The Stay petition and the appeal were taken up and heard together with the consent of both parties.
3. The ground on which the writ petition was dismissed is twofold:-
 - a. A false declaration was made by the appellant herein, ostensibly with the intent of evading the tax payable by him; and

- b. The driver of the vehicle was not an authorized person to sign and execute the delivery challan as a proper agent of the appellant.
4. Being aggrieved by the said order, the appellant has preferred the instant appeal. Before rendering any decision on the issues raised by the appellant in this appeal, a brief narration of the facts is imperative for a better understanding of the case.
5. The conspectus of the facts with which we are concerned is that the appellant, an individual operating the business as a sole proprietorship concern in the name and style of M/s. N.S. Construction from Jharkhand, is engaged in the business of leasing and/or providing rental services of construction machinery and equipment, with or without persons to operate the same, as per the requirement of the customer.
6. The appellant is a duly registered entity under the provisions of the Jharkhand GST Act, 2017.
7. During the course of his business, the appellant received a work order for providing hydraulic excavator with driver on rental basis from one M/s. B.C.C., Buildtech Private Limited (hereinafter BCC) company registered in Haryana.

8. The hydraulic excavator was to be supplied by the appellant to the worksite BCC in Shillong, Meghalaya. The rental charge for the machinery had been agreed at the rate of 2.30 lakh per month. Upon obtaining such work order, the appellant had purchased the excavator from a supplier in Jharkhand and proceeded to supply the same by booking a trailer from Jharkhand to Meghalaya for supplying the excavator.

9. The excavator was being transported from Jharkhand to Meghalaya through West Bengal, which according to the appellant was merely being used as a transportation corridor.

10. On a routine inspection, the officials of the Bureau of Investigation, North Bengal, Alipurduar Zone intercepted the vehicle carrying the excavator on November 25, 2023. On demand, the driver of the transport vehicle, one Umesh Yadav (hereinafter referred to as Umesh) produced a copy of the delivery challan used by the proprietorship concern of the appellant, NS Construction, one copy of the e-way bill dated November 22, 2023, generated by the appellant as an URP (Unregistered Person), and a copy of the consignment note of the same date, that is November 22, 2023, issued by the Jharkhand trailer service, and a photocopy of the tax invoice issued by the vendor of the excavator, which showed the appellant as the purchaser. The consignment was physically verified upon notice to Umesh driver of the Transportation Company and in his presence.

11. Upon verification, it was found that the appellant, a registered person, had made a false declaration in the e-way bill that he was an unregistered person, ostensibly with an intention to evade tax. Umesh, the driver of the transportation company, was not in possession of a proper invoice or delivery challan, since the invoice produced was signed by Umesh, who could not have been construed to be an "authorized signatory of the appellant".

12. On these counts, the authorities detained the goods, being the excavator, for contravention of Section 129 of the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the West Bengal Act of 2017). Upon such detention, a demand was made by the petitioner and an order was passed on December 6, 2023. This order was carried in appeal by the petitioner to the appellate authority, which upon consideration duly rejected the same by its order on February 29, 2024, confirming the order under Section 129(3) passed by the respondent no. 1 herein. It was this order of the appellate authority dated February 29, 2024 that was assailed by the appellant in WPA No. 635 of 2024.

13. The learned Judge upon consideration of the facts of the case and the provisions of law proceeded to affirm the order of the appellate authority and dismiss the writ petition on July 4, 2025, thereby confirming the order of penalty.

14. It is this order of July 4, 2025, that has been assailed before us.
15. Mr. Bhattacharya, appearing for the appellant, has raised two issues. The issues may be summarized as under:-
- i. On the first issue, the contention of the appellant is that the description of the appellant as an unregistered person (URP) in the e-way bill was nothing beyond a ministerial act and thereby a mistake. This was an inadvertent error which had occurred on the part of the appellant. To further this point, he submitted that the appellant did not have any intent to avoid payment of tax as alleged by the adjudicating authority and the appellate authority. Thus, the finding of both the adjudicating and the appellate authority were completely misguided and ought to be set aside. It is not disputed that the appellant had indeed made a declaration of his status as an unregistered person in the e-way bill and the delivery challan, but the same was merely a mistake and could not be construed as a violation of Section 129 read with Rule 138A of the GST Act and Rules;
 - ii. Not accepting the driver as the authorized signatory or the authorized person to sign the delivery challan as a proper agent of the appellant was grossly incorrect and inadequate on

behalf of the authorities. Mr. Bhattacharya contended that the said challan had been produced at the time of detention itself and even at the stage of adjudication. Thus, rejection by the authorities on the flimsy ground that it did not bear the signature of the authorized person/authorized signatory is incorrect, as the driver, being the keeper of the goods, is indeed eligible and entitled to sign the delivery challan while transporting the goods on behalf of the owner. Thus, the driver was really acting on express terms, as the agent of the appellant, who is the owner of the excavator. Thus, the finding that the transporter was not the authorized person to sign and issue the challan is completely untenable in the eyes of law, especially since the challan was not subsequently manufactured but was found with the consignment itself at the time of detention;

- iii. Further, the learned Single Judge had failed to appreciate that the delivery of the excavator from Jharkhand to Meghalaya merely used West Bengal as a transport corridor. Hence, the West Bengal Goods and Services Tax Act (hereinafter the West Bengal GST Act) had no applicability, on account whereof the state authorities had no jurisdiction to inspect, detain, or impose penalty in such a transaction;



- iv. It was also argued that mere discrepancies in documentation without establishing concrete evidence of tax evasion do not empower the state authorities to levy penalties, as the transaction in question does not fall within the domain of the state of West Bengal;
- v. He has placed reliance on the following cases:
- a. Vardan Associates Private Limited vs. Assistant Commissioner of State Tax Central Section and Ors, reported in 2024 (3) SCC 187;
 - b. Asian Switchgear Private Limited vs. State Tax Officer, Bureau of Investigation, North Bengal Headquarters and others, passed in MAT No. 32 of 2023;
 - c. M/s. ASP Traders vs. State of U.P. and Ors., passed in Civil Appeal No. 9764 of 2025.
16. Mr. Das for the state and Mr. Singhania for the Union of India have also made their submissions. The submissions of both parties are on a similar line and summarized hereunder:-

- i. The entire GST regime includes the state GST or the union territory GST and the central GST as well as the IGST Act. Thus, an officer authorized under the Central GST Act is entitled to act as a proper officer of WB GST or even the IGST Act. In the same manner, an authorized officer of the State GST Act is entitled to act as a proper officer under the Central GST or IGST Act. There is, thus, no necessity for issuance of notification under Section 4 of the IGST Act to specifically empower a state officer to act in terms of the said provision. The cross empowerment under Section 6 of the state as well as the Central Act becomes ipso facto applicable to the IGST.

- ii. Every officer has his own demarcated territorial jurisdiction to intercept a vehicle and check the documents of the vehicles plying through such officer's own territorial jurisdiction. If on inspection any violation is found by the proper officer, such an officer is empowered to act under the respective GST Acts. Thus, a state officer, being a proper officer under Section 4, would be entitled to act under the Central GST Act as well as the IGST Act. Thus, a zonal officer of Alipurduar is empowered under the State GST Act to intercept a vehicle

and thus entitled to invoke jurisdiction under the Central or IGST Act.

17. In addition to the aforesaid, the learned advocate for the state has made further submissions on the following issues:-

- a. A false declaration has admittedly been made in the e-way bill and delivery challan by the appellant. The declaration that he is a URP is admittedly false.
- b. Section 129 of the West Bengal GST Act, 2017 specifically provides that where a person transports any goods or stores any goods while they are in transit in contravention of the provisions of the Act or rules made thereunder, all such goods and conveyances 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 only upon payment of the applicable penalty as prescribed under the said provision.
- c. It is clearly in exercise of these provisions that the state officer as a proper officer was entitled to examine and seize the goods, if required, for any violation. The false declaration and

the absence of an authorized signatory on the challan is a clear indication that there has been a violation by the appellant.

d. It is also not disputed, as it appears from the record, that the adjudicating authority as well as the appellate authority had considered all such factors and had given more than a reasonable opportunity to the appellant to present his case. The show cause notice of November 25, 2023 had taken all such issues into consideration and the order of the appellate authority had considered each and every issue raised by the appellant in his defence.

e. He has relied on the following cases:-

a. Mohammad Shamasher Vs. State Of West Bengal And Ors. passed in MAT 108 of 2024.

18. We have heard the learned counsel appearing for the parties in great detail and considered the decision relied upon by them. We have also perused the records of the case.

19. The conspectus of the issue is limited.

20. The appellant's main thrust was on the issue of jurisdiction. According to the appellant, since West Bengal was merely a transport corridor and nothing beyond that, the authorities concerned who inspected the vehicle and inspected the documents were acting beyond their jurisdiction. This was primarily because the State of West Bengal could not be said to derive any revenue as the goods were being transported to Meghalaya. Thus, any loss, if it accrues, would be to the detriment of the state of Meghalaya and not in any manner concerned with the coffers of West Bengal.
21. The second plank of the jurisdictional aspect related to the authority of the officers who had inspected, as they were not empowered to cause such interception and inspection, given that the applicability of the West Bengal GST Act, 2017 was a far-flung idea, again, as West Bengal was merely a transport corridor.
22. In the event the question of maintainability is decided against the appellant, the appellant would not have much to fall back on. On merits, the appellant has in no uncertain terms and on several occasions unequivocally admitted that the e-way bill and challans referred to the appellant as a URP. This is nothing short of a false declaration. The reasons ascribed by the appellant to such false declaration were, "softly put" as an inadvertent mistake. Thus, the fact that there was a false declaration is not disputed. The characterization of such false declaration as a mistake

or not is of little relevance, in this present case, as mens rea in a matter of tax evasion is not germane.

23. The Supreme Court has with great certainty and in a settled manner elucidated that evasion of tax is a matter of fact, irrespective of intent. Thus, the appellant's case that he did not know or was not aware as to whether he should describe himself as a registered person or an unregistered person will not alter nor excuse his default in any manner.

24. Thus, it would be relevant to deal with the issue of jurisdiction first before dealing with the merits any further. Two provisions are of relevance to deal with this issue. The first is Section 6 of the CGST Act and the second is Section 4 of the IGST Act.

25. Section 6 of the CGST Act is set out hereunder:-

“Section 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.”

26. Section 4 of the IGST Act is also set out hereunder:-

“Section 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.”

27. The two sections are almost a mirror reflection of each other. Section 6 deals with authorisation of officers of the State tax or Union Territory tax as a proper officer, while Section 4 deals with authorisation of officers

appointed under the State Tax Act or Union Territory Tax Act as proper officer in certain circumstances.

28. Section 4 of the IGST Act unequivocally mandates that the officer appointed under the said Act or the Union Territory Act are authorised as the proper officer for the purpose of IGST. This authorisation is subject to exceptions and conditions as the government may, on the recommendation of the Council, specify by issuing a notification.
29. No notification has been produced or relied upon before us by any of the parties to assail the issue that persons other than those specified under Section 4 of the IGST Act are to be construed as proper officer.
30. Section 4 of the IGST Act is thus unequivocal. This all-encompassing nature of Section 4 can only be curtailed by a specific notification issued by the Government of India on consultation or on the recommendation of the Council. As no such notification or recommendation was produced or relied upon before us, there is no occasion for us to construe otherwise that an officer specified under Section 4 of the IGST Act is not a proper officer. Officers appointed under the CGST Act and the State Act (herein the West Bengal GST Act) are construed, by way of this deeming provision of Section 4 of the IGST Act, to be proper officers. This is a provision of cross empowerment which has been fostered by the authority upon much consultation and deliberation to mitigate the chances of

double jeopardy and to ensure smooth and efficient functioning of the tax regime.

31. The GST law, through this principle of cross empowerment, affords a far more efficient machinery to the authorities to ensure due enforcement of the provisions of the relevant statutes. The authorities, both Union and state, while making their submission, in no uncertain terms submitted that the proper officer of the West Bengal GST was empowered and thereby had jurisdiction to detain the vehicle and inspect the documents as presented to them.

32. Since the delivery challan and the e-way bill were not properly verified (due to the false declaration that the appellant is not a registered person) and also as the e-way bill was not signed by a duly authorised person, such documents could not be regarded as conclusive evidence to show that the excavator which was being transported was indeed meant to reach the worksite of Shillong, Meghalaya and not to be used within the State of West Bengal. Thus, on a mere bald allegation of the appellant herein that the excavator was meant for the worksite at Meghalaya and would not be used in any part or portion of West Bengal, it cannot be accepted that West Bengal was merely a transport corridor and the goods would not be used or sold in West Bengal.

33. Thus, it is clear and unambiguous that the authority had acted as a proper officer duly empowered in causing the inspection and detention of the goods, well within their jurisdiction without any infraction of law.
34. In so far as issue no. 1 raised by the appellant is concerned, it is indisputable that a declaration which was not correct had been made by the appellant. The appellant was a duly registered person and there was absolutely no way that he could have declared himself, being a regular businessman, as an unregistered person.
35. In so far as issue no. 2 is concerned, the driver, Umesh, was the agent of the carrier. The carrier was not authorized by the appellant and hence an agent of the carrier could not be construed or declared as an authorized signatory of the appellant. In fact, things went far south when the reply to the show cause notice was given by the chartered accountant of the appellant. In such a reply, the said chartered accountant has stated that the driver was merely carrying the machine on his (the appellant's) behalf and was not responsible for the same in any manner. In fact, upon verification it was found that the appellant was the only "declared authorized signatory of the proprietorship concern". This was available from the registration details of the proprietorship concern.

36. The appellate authority in the order impugned of February 29, 2024, has considered all of these aspects in great detail and has passed the order after giving more than a reasonable opportunity of hearing to the appellant.
37. It would also be germane to mention here that in terms of Rule 55 of the West Bengal GST/CGST Rules, 2017, when goods are transported without invoice and for reasons otherwise than by way of supply of such goods, a delivery challan is a statutory mandate which is required to be accompanied with the goods in movement. In the present case, the movement of the excavator is not as and by way of supply of goods but for supply of services under the West Bengal GST/CGST Act, 2017. Accordingly, a delivery challan is required to be issued and is mandated for the purpose of transportation of such goods, which was found accompanying the goods in question. When such goods are being transported on the basis of a delivery challan rather than a tax invoice, the same has to be declared as such as specified under Rule 138 of the said rules.
38. In the present case, transportation of the excavator by a registered taxable person was being effected by way of an e-way bill for an entity described as an unregistered person. Clearly, the delivery challan was found lacking and not up to the specification as indicated in Rule 55 of the said rules.

39. The appellant has relied on three decisions to establish his case. The first of such decision is M/s. Asian Switchgear Private Limited (supra) by a co-ordinate bench of this Hon'ble Court. The said decision is not applicable to the facts of this case, as the issue in the said decision related to the fact that the appellate authority had violated the principles of natural justice in as much as the defence taken by the appellant before the appellate authority had not been considered by the appellate authority while passing the order. In the instant case, the defence of the appellant herein has been taken into account and dealt with by the appellate authority.
40. The second decision in Vardan Associates Private Limited (supra) was a case where the appellant had been imposed a penalty of Rs. 81 lakhs, which was modified by the Hon'ble Supreme Court of India on the ground of the peculiar facts of that particular case, and it was specified that the same would not be treated as a precedent. Thus, the said case does not have any bearing on the case in hand.
41. The third case relied on by the appellant, passed by the Hon'ble Supreme Court of India in M/s. ASP Traders (supra), was a completely separate issue where the payment by the delinquent person to obtain release of the goods was treated as absolving the authority from the need to pass a reasoned order and upload the same. The Hon'ble Supreme Court of India held that not passing an order in the appeal resulted in frustrating the appellant's statutory right and hence was contrary to the established

principles governing tax adjudication and procedural fairness. In the present case, this is not the issue, as the order had been duly passed by the appellate authority, even after the goods had been released from detention by the appellant upon payment of the requisite penalty and taxes. Hence, the said decision in *M/s. ASP Traders (supra)* is not applicable to the instant case.

42. The respondents have relied upon a decision of a co-ordinate bench of this Hon'ble Court in *Mohammad Shamasher (supra)*, where the facts were quite similar to the instant case. In the said case, there was a mismatch in the e-way bill, similar to the present case, where a registered person had been described as a URP and the delivery challan was not signed by the consignor. It was held that the mismatch was not inadvertent but was really an attempt to conceal the identity of the actual user. In that particular case, as the learned court had held, the order of the appellate authority was rightly set aside by the learned Single Judge and was ultimately upheld in this judgment.

43. In view of the discussion aforesaid, we find that the contentions raised by the appellant are not tenable, for the following reasons:-

- i. The authorities who had caused the detention were duly equipped and had the jurisdiction to cause such detention, as the goods and conveyance were detained due to contravention

of Section 129 of the West Bengal Act, 2017, given that the said goods were intercepted and detained within the state of West Bengal, over which the detaining authority had jurisdiction.

- ii. The misdescription, whether by inadvertence or otherwise, by the appellant in describing himself as a URP, even though he was registered, tantamounts to a concealment. This concealment has resulted in tax evasion. Hence, bereft of intention, which the Hon'ble Supreme Court has held in several decisions is not germane in a matter of tax evasion, the acts of commission and/or omission did in fact result in tax evasion.
- iii. The signature of Umesh, the driver, as an authorized signatory was clearly contrary to the records and contrary to the representation made by the appellant that he was the only authorized signatory of the proprietorship concern. Thus, under no circumstances could Umesh, the driver, be accepted as the authorised signatory of the appellant to sign the delivery challan as the agent of the appellant.

44. In view of the aforesaid discussions and findings, we hold that the Judgment and Order of the learned Single Judge assailed before us, dated



July 4, 2025, has been rightly passed and, there being no infirmity or illegality therein, we find no reason to interfere with the same.

45. The appeal and the connected application are accordingly dismissed.
46. There shall be, however, no order as to costs.
47. An urgent photostat-certified copy of this judgment, if applied for, be made available to the parties upon compliance with all requisite formalities.

(Reetobroto Kumar Mitra, J.)

(Rajarshi Bharadwaj, J.)

