

16.04.2026
SI No.A537
Ct. No.237
S.A.

WPA 28356 of 2024

**Industrial Pumps & Motors Agencies & Anr.
-vs-
The State of West Bengal & Ors.**

Mr. Bijay Kumar Sharma
...for the petitioners
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
...for the State

The petitioners have challenged an order dated November 11, 2024, passed by the GST Appellate Authority, namely the Joint Commissioner of Revenue, which affirmed the order dated May 12, 2022, issued under Section 129(3) of the West Bengal Goods and Services Tax Act, 2017, imposing a penalty of Rs. 1,58,034/- upon the petitioners.

The writ petitioners have their principal place of business at Burabazar, Kolkata. They are engaged in the retail business of transmission shafts, pumps for liquids, electric motors, and related goods. On May 7, 2022, the petitioners, acting as consignors, supplied pumps for liquids, liquid elevators, and parts of centrifugal pumps to the Durgapur Steel Plant of Steel Authority of India Limited (SAIL), the consignee.

It is not in dispute that the petitioners caused the movement of the goods through a vehicle and generated a valid e-way bill on May 7, 2022, at 01:09

PM. The e-way bill was valid for 180 kms until 11:59 PM on May 8, 2022. During transportation, the vehicle was intercepted by the Deputy Commissioner, State Tax, Bureau of Investigation, Durgapur Zone, on May 9, 2022, at 8:50 AM, at a petrol pump in Durgapur, approximately 10 kms away from the destination. At the time of interception, it was found that the e-way bill had expired.

The proper officer thereafter initiated proceedings under Section 129(1) of the West Bengal Goods and Services Tax Act, 2017. The petitioners, however, secured release of the goods upon payment of a penalty equivalent to 200% of the tax payable on the goods.

It appears from the order of the Deputy Commissioner, State Tax, Bureau of Investigation, that the total value of the goods was assessed at Rs. 4,38,983/-, and accordingly, a penalty of Rs. 1,58,034/- was imposed by an order passed under Section 129(3) of the said Act. The said order dated May 12, 2022, as noted earlier, was upheld by the Appellate Authority.

Learned counsel appearing for the petitioners, relying upon two judgments dated April 28, 2023, in **MAT 562 of 2023 with I.A. No. CAN 1 of 2023** (*Progressive Metals Pvt. Limited vs. The Deputy Commissioner, State Tax, Bureau of Investigation*

South Bengal, Durgapur Zone & Ors.) and dated September 9, 2025, in **MAT 1847 of 2024 with I.A. No. CAN 1 of 2025, WPA 8453 of 2024 (Hindusthan Biri Leaves & Anr. vs. Assistant Commissioner of State Tax, Bureau of Investigation, Durgapur Zone & Ors.)**, submitted that there was no intention on the part of the petitioners to evade payment of tax. It was contended that, in the absence of such intent, the imposition of a penalty at the rate of 200% of the tax payable is not justified.

It was further submitted that, in the present case, no discrepancy or irregularity was alleged by the department except that the e-way bill had expired prior to completion of transportation. The vehicle in the present case was intercepted on May 9, 2022, at 8:50 AM, at a petrol pump located approximately 10 kms away from the destination. The e-way bill had expired on May 8, 2022, at 11:59 PM. Before the authority, it was the case of the petitioners that, during the movement of the goods, the vehicle experienced some “technical snag” and the person in charge of the vehicle had to halt the vehicle for approximately three hours for routine maintenance.

Section 129 of the WBGST Act deals with detention, seizure and release of goods and conveyances in transit. Subsection (1) of section 129

states that notwithstanding anything contained in the Act where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of the 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 upon payment of penalty as mentioned in the clauses under subsection (1) of section 129. Therefore, what is required to be considered in every case is whether there was a contravention of the provisions of the Act.

Sub-rule (10) of rule 138 lays down the validity period for a e-way bill. The 2nd proviso in sub-rule (10) provides that in circumstances of an exceptional nature including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01.

The third proviso states that the validity of e-way bill may be extended within 8 hours from the time of its expiry. Thus, the rules give certain latitude and therefore, the conduct of the transporter is required to be examined bearing in mind that the rule itself provides for extension of the validity period of

the e-way bill and the transporter has been given a latitude of 8 hours to seek for such extension.

In the present case, the petitioners could have extended the validity period of the e-way bill within eight hours, i.e., until 8:00 AM on May 9, 2022. Admittedly, the vehicle was intercepted at 8:50 AM. Therefore, the delay in renewing the e-way bill was approximately 50 minutes.

The judgments relied upon by learned counsel for the petitioners indicate that a Division Bench of the High Court has set aside the imposition of a 200% penalty in cases involving failure to renew the e-way bill within the stipulated time period under similar circumstances.

Learned counsel appearing for the revenue, however, relied upon a judgment of a Division Bench of the Calcutta High Court dated April 25, 2025, passed in **FMA 504 of 2024 (Ashish Kumar Sharma vs. The Deputy Commissioner, State Tax, Bureau of Investigation, South Bengal, Howrah Zone & Ors.)**. The relevant part of the said judgment is quoted below:

“18. Be that as it may, what is required is whether there was intention to evade the payment of tax or in other words whether "mens rea" should be totally ignored. The statute empowers imposition of penalty which is rather rigid and as high as 200%. If that be so, it will be well open to the authorities to consider the other documents which were accompanying the goods to ascertain as to whether there was any intention on the part of the owner of the goods or

the transporter to evade payment of taxes. In the instant case, that there is no such allegation. Therefore, considering the peculiar facts and circumstances of the case, we are of the view that the case on hand can be construed to be rather peculiar and imposition of 200% penalty is harsh and if the same is to be affirmed it will cause grave prejudice to the appellant. However, considering the fact that the appellant had not been diligent in validating the e-way bill for four days, the appellant cannot be wholly exonerated. It is no doubt true that the statute provides for imposition of 200% penalty.”

Having regard to the facts and circumstances of the present case, this writ petition is disposed of by setting aside the order dated May 12, 2022, passed by the Deputy Commissioner, State Tax, Bureau of Investigation (South Bengal), Durgapur Zone, as well as the order dated November 11, 2024, passed by the Joint Commissioner of Revenue. The petitioners are directed to pay a sum of Rs. 10,000/- as a token fine to the concerned respondent. The respondent authority shall refund the balance amount after adjusting Rs. 10,000/- from the amount already deposited by the petitioners as penalty.

Accordingly, **WPA 28356 of 2024** stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)