

GAHC010020882026



2026:GAU-AS:3014

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./134/2026

MD NESHAR
SON OF MD. BASHIR, C/O-MD. CHAMED ALI, PROP BABA LOGISTICS
RESIDENT OF HOUSE NO.14, GANDHIBASTI, LALMATI ROAD,
SILPUKHURI, CHANDMARI, GUWAHATI-03 DISTRICT- KAMRUP (M),
ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM.

Advocate for the Petitioner : MR. SURAJIT DUTTA, MR. N I KHAN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

26.02.2026

Heard Mr. Surajit Dutta, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Addl. Public Prosecutor appearing for the State.

2. By this application filed under Section 528/442 of the BNSS, 2023 read

with Article 227 of the Constitution of India, the petitioner has challenged the Order dated 14.11.2025 passed by the Chief Judicial Magistrate, Kamrup(M), Guwahati in connection with STF PS Case No. 04/2025, under Sections 316(2)/316(5)/318(4)/336(3)/340(2)/317(2) of BNS by which the learned Court had rejected the prayer of zimma of seized goods/articles of the petitioner.

3. The case started with lodging of the ejahar wherein it was revealed that a transporter company, namely, Baba Logistic and few other transporters were charged with movement of taxable goods without valid GST document and the petitioner is the proprietor of M/s Baba Logistics. It was further stated in the said FIR that goods were found being unloaded from the train into trucks bearing various registration numbers carried by Baba Logistics and that at the time of interceptions, the driver of the said truck could not produce valid GST documents such as E-Way Bill, Tax Invoice, Manifest, Consignment Note, Railway Receipt, etc. It is also averred that although some documents were later presented but the drivers could not present any documents against some of the goods with GST norms. Hence, for proper verification, the authorities detained the vehicles and the goods and kept the same in the Assam State Warehousing Corporation, Amingaon wherein, the goods are still lying there.

4. In view of the directions to get proper instructions in the matter, the learned Addl. Public Prosecutor has placed the said instruction which reveals that the items against which proper GST certificates were there, were released but the items where the certificates were not there were not released by the Courts. In the said instructions, the Investigating Officer had framed certain questions and placed it before the Office of the Principal Commissioner of State Tax.

5. It is seen from the queries and answers that for release of 218 packages which does not contain the proper documents, a penalty of Rs. 9,27,882/- was imposed and realized against the said goods under Section 129 of the GST Act, 2017 for transportation of goods without valid GST documents. It has also been answered that goods were transported unlawfully in contravention of GST Act, 2017 as there was no supporting documents accompanying the goods. A further reply is given by the Office of the Principal Commissioner of State Tax that no legal ownership of Baba Logistics over the seized goods have been established and the goods were not supported by valid tax documents as required under the GST Act.

6. However, Mr. Surajit Dutta, learned counsel for the petitioner has placed the documents by which the penalty was taken from the petitioner under Section 129 of the GST Act which is annexed at Page 62 of the said petition.

Section 129 of the GST Act may be reproduce here in below:-

(a) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two hundred per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;

7. The above provision makes it crystal clear that when any person transport any goods in contravention of the provisions of the said act such goods a liable for seizure and the same may be released on payment of penalty equal to 200% of the tax payable on such goods.

8. In the instant case, it is seen that 218 packages did not contain valid GST documents and the same were seized as per Section 129 of the GST Act, 2017. However, later, penalty for the said seized goods were recovered from the petitioner which is admitted by the Office of the Principal Commissioner of State Tax in its reply as placed by the learned Addl. Public Prosecutor, the said goods needs to be released as per Section 129 of the GST Act, 2017.

9. In view of the said position of law, seized 218 packages which was kept by the Investigating Officer or any number of packages against which penalty is paid under Section 129, GST be released or given in custody to the petitioner

on conditions which may be imposed by the Investigating Officer as required under the law more so under Section 129(C) of the GST Act, 2017.

10. Petition is disposed of.

JUDGE

Comparing Assistant