



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5420 of 2026

M/s. Gopal Enterprises

....

Petitioner

Mr. Rudra Prasad Kar, Senior Advocate
assisted by Mr. Jitendra Kumar Palei, Advocate

-versus-

***Chief Commissioner of
Commercial Tax and GST, Odisha
and others***

....

Opposite Parties

Mr. Sunil Mishra, Standing Counsel for CT
& GST Organization

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

23.02.2026

Order No.

01.

W.P.(C) No.5420 of 2026 and I.A. No.3317 of 2026

I. It is the case of the petitioner, the Consignor and owner/supplier of the goods, that since opposite party no.3- Consignee had ordered for supply of goods, it delivered the goods, *i.e.*, “Areca Nut Chura (Dust)” containing 27,550 Kgs. amounting to Rs.60,74,775/- on 20th January, 2026, to Transporter-“Saawariya Cargo Movers” for delivery of goods to said opposite party no.3- Consignee of Patna bearing GSTN: 10CXZPV7593K1ZA and, accordingly, Tax Invoice has been prepared disclosing such fact. The goods were expected to be transported from Nagpur to be delivered in Patna by the Transporter.

1.1. Due to technical glitches and mis-communication between the petitioner and the Transporter, driver engaged by the Transporter went for delivery of the goods to opposite party no.3-



Consignee along with all the documents except e-way bill since the petitioner is engaged in both wholesale and retail business. The petitioner depends on its accountant who looks after the preparation of Tax Invoice and making compliance of statutory requirements.

1.2. Due to the difficulty faced by the petitioner in generating e-way bill, the petitioner could not be able to make the e-way bill available with the Transporter. The petitioner was informed by the consignee and the transporter that the goods along with the vehicle bearing Registration No.OD-15-W-1994 has been detained by opposite party no.2 and an order imposing penalty has been passed in the name of the driver of the opposite party no.3 on 30th January, 2026 under Section 129(1)(b) of the Odisha Goods and Services Tax Act, 2017 (for short the “OGST Act”).

1.3. The petitioner for the first time came to know about the aforesaid order dated 30th January, 2026, on 5th February, 2026 when the Consignee and the Transporter intimated about the above facts to the petitioner. Thereafter, the petitioner enquired from the Transport Agencies and the Consignee about the proceeding initiated by opposite party no.2 and came to know that the opposite party no.2 on 23rd January, 2026 has detained the consignment and passed the order under Section 129(1)(b) of the OGST Act, wherein 100% of the amount of goods has been imposed as penalty on the driver

1.4. On further enquiry, the petitioner could be able to lay hands on the order dated 30th January, 2026 and noticed that opposite party no.2 detained the vehicle of the petitioner on 23rd January, 2026 loaded with the goods. It could be ascertained that the opposite party no.2 alleged that the driver has not submitted any document at the time of inspection, such as, invoice and e-way bill.



Since it is alleged that the opposite party no.2 on its own determined the value of the goods as Rs.1,10,20,000/- and imposed penalty under Section 129(1)(b) of the OGST Act as the owner did not come forward. The impugned order, therefore, has been passed against the name of the driver of the vehicle.

2. Mr. Rudra Prasad Kar, learned Senior Advocate submits that the petitioner-consignor, being the owner of the goods and was very much available, and though it was within the knowledge of the authority concerned, without issuing notice in his name, the vehicle in question along with the goods has been detained by opposite party no.2. Consequently, the impugned order has come to be passed by imposing penalty on the driver of the alleged vehicle. He arduously submitted that the impugned order being passed in violation of the principles of the natural justice, the petitioner is entitled to the reliefs sought for.

2.1. He further submits that since the goods are perishable in nature, the goods and the vehicle are to be released.

3. The issue raised by the learned Senior Advocate that when the details of the owner of goods are within the knowledge of the CT&GST Organisation, there was no occasion for the authority concerned to detain the vehicle along with the goods ignoring to serve notice on the owner and, thereby the imposition of penalty by determining value of goods arbitrarily under Section 129(1)(b) of the GST Act is vitiated inasmuch as non-compliance of rules of natural justice would result in impugned order liable to be set aside. The issue requires consideration. Issue notice to the opposite parties.



4. Mr. Sunil Mishra, learned Standing Counsel for CT & GST Organization appears and waives service of notice on behalf of the opposite parties.

5. Considering the submission of the learned Senior Counsel that the goods are perishable and the vehicle is subject to corrosion as the same is put under the open sky, this Court directs the petitioner to deposit an amount equivalent to penalty calculated in terms of Section 129(1)(a) of the GST Act, as amended by virtue of the Finance Act, 2021 on the tax payable as reflected in the tax invoice(s) within a period of two weeks from date. In the event of such deposit being made, the vehicle bearing registration No.OD-15-W-1994 along with the goods shall be released forthwith by opposite party no.2/authorized officer on proper acknowledge/identification. It is further directed that the petitioner shall furnish an undertaking that in the event the writ application fails, he shall be bound to discharge the liability as per the order dated 30.01.2026. It is made clear that in case the writ petition succeeds, the petitioner shall be entitled to not only refund of the amount so deposited, but also interest at the rate stipulated by the Court at the final disposal of the matter from the date of deposit till actual payment.

6. List this matter on 9th March, 2026. Counter affidavit, if any, shall be filed in the meantime.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge