



2026:AHC-LKO:3525

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT TAX No. - 1561 of 2025

M/S Aviraj Trading Thru. Authorized
Representative Mr. Jagdish

.....Petitioner(s)

Versus

State Of U.P. Thru. Finance Secy. Ministry Of
Finance Lko. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s) : Sandeep Gupta, Ravi Kumar Surtani
Counsel for Respondent(s) : C.S.C.

Court No. - 6

HON'BLE JASPREET SINGH, J.

1. Heard learned counsel for the petitioner and Shri Ajay Kumar Singh Tomar, Additional Chief Standing Counsel for the State who has filed a counter-affidavit, after serving a copy on the counsel for the petitioner, who submits that he does not wish to file any rejoinder-affidavit, the said Counter-affidavit is taken on record.
2. Under challenge is the order dated 22.09.2025 passed by the respondent no.3 which was further challenged by the petitioner in appeal before the respondent no.2, who on 15.11.25 dismissed the appeal, which prompted the petitioner to file the instant petition.
3. The record indicates that a Co-ordinate Bench of this Court by means of an order dated 16.12.2025 had required to respondents to file a counter-affidavit.
4. Submission of the learned counsel for the petitioner is that the petitioner was a consignee of the goods which were being transported from Raipur in the State of Chhattisgarh to Shimla in Himachal Pradesh. While the said goods were in transit, the vehicle in question bearing number PB-11-CB-2601 was intercepted by the respondent no.3 in Hardoi on 03.09.2025. The said driver of the vehicle provided the necessary documents i.e. the invoice, E-way bill and the consignment note. The statement of the driver of the vehicle was recorded and the physical

verification of the goods were made. No discrepancy was found with respect to the quantity of the goods.

5. In the aforesaid backdrop, the respondent no.3 issued notice under Section 129(3) of the GST Act 2017. The petitioner claiming the goods furnished his reply and brought on record all the necessary documents. However, the same did not find favour with the respondent no.3, who passed the impugned order dated 22.09.2025 and a penalty of Rs.5,74,896/- was levied on the petitioner. The petitioner being aggrieved, preferred an appeal before the respondent no.2, which also came to be dismissed on 15.11.2025.

6. Being aggrieved, the petitioner has assailed the aforesaid two orders and it is submitted that the alleged ground upon which the notices were issued to the petitioner were legally untenable. The respondent no.3 noticed that in view of the statement recorded by the driver, the goods in question were not found to have been loaded from Raipur, rather the goods were loaded from Lucknow which did not match. It also noted that the loading of the goods from Raipur and its movement could not be traced and, therefore, the penalty was imposed.

7. It is urged that the goods were loaded from Raipur for Shimla and the necessary documents i.e. E-way bill, invoice and the consignee note were provided to the authorities. There was no material contrary thereto, yet the said documents were not considered and an order under Section 129(3) of the GST imposing the penalty was made against the petitioner.

8. It is also urged that vague findings have been recorded which have no material bearing with the material furnished by the petitioner and as such the findings are apparently against the material on record. Hence, the impugned orders are bad in the eyes of law.

9. Shri Tomar, learned Additional Chief Standing Counsel for the respondent-State submits that the petitioner has already deposited the necessary demand and his goods have also been released. In view thereof, the order passed by the authorities cannot be said to be bad especially when it was noticed that the registration of the petitioner as well as the vendor firm of Vidhya Kumari Sahu, who had sold the goods was

cancelled and, in such circumstances, the order passed by the authorities is just and proper and does not require any interference.

10. The Court has considered the rival submissions and also perused the material on record.

11. At the outset, it may be noticed that it was a specific case that the goods were sold by M/s Vidhya Traders of Raipur and the invoice in respect thereto is dated 01.09.2025. A copy of the same has been brought on record as annexure no.3, which also indicates that the goods were sold to the petitioner, a firm based in Shimla. The copy of the E-way bill is also on record indicating that it was generated on 01.09.2025 and it was valid till 10.09.2025 indicating the vehicle No. PB-11-CB-2601. The consignee note of the transporter was also brought on record. In the instant case, the petitioner was the consignee and, therefore, he had come forward to claim the goods as its owner. In such circumstances, the respondent-authorities were not justified in issuing a show cause notice under Section 129(1)(b).

12. It is also to be noticed that the authorities had released the goods in favour of the petitioner treating him to be the owner of the goods, yet it proceeded against the petitioner as "another person" and passed an order under Section 129(3). There was no material before the authorities to raise any suspicion regarding the movement of the goods as well as the documents furnished.

13. It was not the case of the department that the E-way bill as well as the consignee note and the tax invoice were fraudulent. In absence of the aforesaid element of fraud, the authority could not have ignored the document. Moreover, submission made on behalf of the authorities that the registration of the firm of the petitioner as well as that of Vidhya Kumari Sahu was cancelled, cannot come to the aid of authorities for the reason that admittedly the authorities issued a show cause notice to the seller firm namely Vidhya Kumari Sahu on 05.09.2025 and the order of cancellation was passed on 13.09.2025. Similarly, the show cause notice sent to the petitioner was dated 03.11.2025 and the order of cancellation was 17.11.2025. All these orders were post 01.09.2025, on which date,

the invoice was generated and the goods were loaded for transportation from Raipur to Shimla.

14. Be that as it may, the reasons in the impugned order cannot be sustained as they are arbitrary and against the material on record and there was no explanation as to the fact that once the goods were released in favour of the petitioner treating him to be the owner of the goods, there was no reason to initiate proceedings and pass order under Section 129(1)(b) of the Act of 2017.

15. For the aforesaid reasons, the impugned orders dated 22.09.2025 passed by the respondent no.3 and order dated 15.11.2025 passed by the respondent no.2 are set aside. The matter shall stand remitted to the respondent no.3, who shall taken note of the facts and material on record and after affording a full opportunity of hearing to the petitioner shall pass fresh orders.

16. With the aforesaid, the writ petition is allowed. Costs are made easy.

(Jaspreet Singh,J.)

January 16, 2026

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