

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P.(T) No. 2722 of 2022**

M/s Bokaro Transport Company, Ghaziabad through  
its authorized signatory Sri Anand Choubey R/o Howrah,  
Dist- Kolkata, West Bengal

--- --- Petitioner

Versus

1.The State of Jharkhand through the Commissioner  
of State Tax, Ranchi  
2.The Deputy Commissioner of State Taxes,  
Dumka Circle, Dumka

--- --- Respondents

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**CORAM: HON'BLE MR. JUSTICE APARESH KUMAR SINGH  
HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Petitioner : Mr. N.K. Pasari, Advocate

For the Respondents : Mr. P.A.S. Pati, G.A.-II

05/06.07.2022 Heard learned counsel for the parties.

2. Reference may be made to the order dated 23.06.2022, which reads as under:

*“Learned counsel for the petitioner submits that the entire proceedings leading to imposition of tax and penalty vide order dated 2nd June, 2022 (Annexure-8) under Section 129 (3) of the JGST Act has been concluded on the same day on which the detention order under Section 129 (1) in Form GST MOV-06 was issued and the show cause notice in Form GST MOV- 07 (Annexure 6 series) was issued upon the driver. Till date, no summary of the order in Form GST DRC-07 has been issued in absence of which, petitioner is precluded from preferring any appeal. Petitioner's vehicle is lying in detention. Till 16th January, 2022, the office of the Appellate Authority was vacant. Therefore, the petitioner has moved this Court on 16th June, 2022 for the instant relief as the impugned proceedings are in clear violation of principles of natural justice and Section 68 and Section 129 of JGST Act, 2017. Learned counsel for the petitioner submits that petitioner is ready to furnish bond for release of this vehicle and approach the Appellate Authority, if so notified.*

*2. Learned counsel for the State Mr. P.A.S.Pati states on instructions that the appellate authority has taken over charge on 17.06.2022. However, he would seek instruction as to whether GST DRC-07 has been issued upon the driver/transporter-petitioner or not.*

*3. List this case on 28.06.2022.”*

3. A detail counter affidavit has been filed by the State on 05.07.2022. Petitioner's vehicle is still lying in detention. Since GST DRC 07 was not uploaded in the common portal, petitioner, who is the owner of the truck was facing technical difficulty in preferring an appeal on the online portal. The other technical difficulty faced by petitioner was absence of GSTIN number in favour of the owner, since the proceedings were conducted against the driver.

4. Learned counsel for the petitioner has also argued that the proceedings are vitiated on account of violation of principles of natural justice and the procedure to be followed by the adjudicating authority in cases of detention of goods and conveyances in transit.

5. Learned counsel for the petitioner and the State both have referred to the Circular No. 41/15/2018-GST dated 13.04.2018 issued by the Ministry of Finance, Department of Revenue, CBIC, GST Policy Wing, New Delhi and the Circular No. 41/2018 dated 20.04.2018 issued by the Commercial Taxes Department, Government of Jharkhand. Though the Circular No. 41/2018 at Para 2(v) shows that a summary of every order in FORM GST MOV-09 and FORM GST MOV-11 shall be uploaded electronically in FORM GST-DRC-07 on the common portal, but learned counsel for the respondent State on instruction submits that the appeal can be preferred even against the order contained in FORM GST MOV-09. He further submits on instructions that the GSTIN number with the I.D. and password can be passed on to the petitioner-owner if he approaches the Deputy Commissioner of State Taxes, Dumka Circle, Dumka. Therefore, petitioner should avail the alternative remedy of appeal under Section 107 of the JGST Act, 2017 and he may seek release of the vehicle by furnishing bond and the bank guarantee of an amount equivalent to the liability, which has been fastened in terms of FORM GST MOV-09.

6. Learned counsel for the petitioner has reiterated the plea of violation of principles of natural justice, however he submits that petitioner is ready to go before the appellate authority now that he has been notified on 17.06.2022.

7. Having regard to the aforesaid facts and circumstances and that the petitioner has a remedy of appeal under Section 107 of the JGST Act, petitioner is granted liberty to approach the appellate authority against the impugned order passed under FORM GST MOV-09. On his approaching the Deputy Commissioner, State Taxes, Dumka Circle, Dumka shall provide the GSTIN number so that petitioner can prefer an appeal online. In case the appeal is not accepted online for any technical reasons, he would be at liberty to prefer an appeal manually before the appellate authority the Deputy Commissioner, State Taxes, Dumka Circle, Dumka.

8. Learned counsel for the petitioner submits that in terms of para 2(i) of the Circular No. 41/2018, petitioner is also ready to furnish bond and bank guarantee of the amount equivalent to the liability fastened under FORM GST MOV-09 for release of his vehicle and appropriate direction may be issued in this regard. On filing of appeal and furnishing of bond together with bank guarantee of the amount equivalent to the liability fastened under FORM GST MOV-09, the appellate authority would release the vehicle forthwith in accordance with law.

9. The writ petition is disposed of with the aforesaid directions and observations. Let it be made clear that this Court has not gone into the merits of the case of the parties.

**(Aparesh Kumar Singh, J.)**

**(Deepak Roshan, J.)**