


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 12230/2025

Korfex Industries Private Limited, Situated At Plot No. G-172 And G-173, Riico Industrial Area, Karoli, Bhiwadi, Alwar, Rajasthan-301019 Through Its Authorized Signatory Director, Ravi Garg Son Of Dinesh Garg Aged About 37 Years, Resident Of H.no.2/b, First Floor, Village Mohammadpur, R.K. Puram, Delhi-110066.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary Department Of Finance, Government Of Rajasthan, Secretariat, Jaipur.
2. Commissioner, Commercial Taxes, Government Of Rajasthan, Jaipur.
3. Assistant Commissioner, State Tax, Room No. Iii Enforcement Wing Iii, New Building, Kar Bhawan, Ambedkar Circle, Jaipur, Rajasthan.
4. Union Of India, Through The Secretary, Department Of Revenue, Ministry Of Finance, Central Secretariat, North Block New Delhi 110 001.

----Respondents

For Petitioner	:	Ms. Urvashi Dugga with Mr. HV Nandwana
For Respondent Nos. 1 to 3	:	Mr. Bharat Vyas, AAG (Sr. Av.) assisted by Mr. Jaivardhan Joshi
For Respondent No.4	:	Mr. Rakesh Choudhary, Sr. CGPC with Mr. Siddhant Jain

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA

HON'BLE MR. JUSTICE SANJEET PUROHIT

JUDGMENT

RESERVED ON : **16/09/2025**

PRONOUNCED ON : **7/11/2025**

BY THE COURT (PER HON'BLE THE ACTING CHIEF JUSTICE):

1. By way of this writ petition, the petitioner has prayed for the following reliefs:

"I. issuance of a writ, order or direction especially in the nature of **Certiorari** for quashing the order in form GST-MOV-02 dated 30.07.2025 (**Annexure P-16**) under Section 68 of the GST Act, 2017 read with the relevant provisions of Central Goods and Services Tax Act, 2017/The Integrated Goods and Service Tax Act, 2017 and Goods and Services Tax (Compensation to States) Act, 2017 as Section 68 which is only applicable for goods in transit and all subsequent proceedings being without jurisdiction, unconstitutional and violative of Article 265 of the Constitution of India and being against the mandate of Section 68 of the above-mentioned Act and being arbitrary, per-se and in absolute violation of principles of natural justice.

ii) Issue a writ order or direction especially in the nature of mandamus directing the respondents in releasing the goods and conveyance as the detention is both illegal and time barred as per the Section 68 read with Rule 138A, 138B & 138C of the GST Act, 2017.

iii) Issue a writ, order or direction especially in the nature of Mandamus to the respondent officials for release of illegally detained goods and trucks bearing registration No.RJ32GE9020, as the same have been illegally detained without issuing any detention order under any applicable law;

iv) Issue any writ, order or direction that this Hon'ble Court may deem appropriate for compensation of the grave loss suffered by the petitioner and the continuing loss thereafter, due to the illegal actions including illegal detention of the goods which had reached its destination and vehicles by the respondent officials;

v) With a prayer that any further time barred proceedings may kindly be stayed till the pendency of the present writ petition and the goods and vehicles may kindly be released on the terms and condition that this Hon'ble Court may deem appropriate.

vi) Issuance of any writ, order or direction that this Hon'ble Court may deem appropriate for compensation of the grave loss suffered by the petitioner and the continuing loss thereafter, due to the illegal actions including illegal detention of the goods in transit and vehicles by the respondent officials;

vii) For the issuance of any other appropriate writ, order or direction which this Hon'ble Court may deem fit in the facts and circumstances of the present case.

viii) summon the complete record of the case

x) Award the cost of the writ petition in favour of the petitioner and against the respondents."

2. The petitioner before us is a private limited company and registered dealer having GSTIN-08AAGCT4615H1ZA in the State

of Rajasthan under the Goods & Services Tax Act, 2017 (for short 'the Act of 2017').

3. Brief facts are that the petitioner purchases remelted lead and claims to sell after purifying the lead to manufactures of batteries. The remelted lead after its purification has a different HSN code. The purchase stated to be from another active registered dealer from the State of Haryana. It is stated that a purchase order was issued on 11.07.2025 for 150000.00 Kg of lead. The supplier M/s SS Industries is a regular supplier of remelted lead to the petitioner. On 29.07.2025, a vehicle from M/s Future Translogistics was requisitioned for remelted lead and the same was weighed at Vikas Dharam Kanta and photographs relating to times stamped and GPS Map have been placed. The tax invoice was generated on 29.07.2025. Thereafter, e-way bill was generated and the QR code of the e-way bill and tax invoice IRN number were mentioned in terms of Rule 138C of the Central Goods & Services Tax Rules, 2017 (for short 'the Rules of 2017'). The vehicle having registration No. RJ-32-GE-9020 was GPS enabled and the same reported with the goods at the factory of the petitioner on 29.07.2025 at 15:00:05 Hrs. The driver entered the vehicle number at 18:50 Hrs after stationing the vehicle. From such premises of the factory, four pieces were taken for sample before unloading. Certain CCTV camera photographs have also been placed. It is stated that on 30.07.2025, a raid was conducted in terms of Section 67 of the Act of 2017 in the morning and the raid party entered the premises at 11:17 AM and after the raid, CCTV cameras were shut down at 11:43 AM. The search was conducted and an order of seizure under INS-02 was issued, but

the concerned vehicle was not seized as per law. After search, the inspecting party left the premises on 31.07.2025 at 06:00 AM after providing *panchnama*. Thereafter, the truck was requisitioned from the boundary of the factory on 30.07.2025 at 11:20 AM by issuing form GST MOV-02, which provided the reasons mentioning as "The genuineness of the goods in transit (its quantity etc.) and/or tendered documents requires further verification" and "The genuineness of supplier of goods for further verification". The vehicle was taken from Bhiwadi to Jaipur, which is 250 Kms away and stationed at Jaipur, while the GST Department was stated to be at Bhiwadi too.

4. Learned counsel for the petitioner submits that MOV-02 was illegally issued showing the vehicle in transit whereas the vehicle was already stationed and had reached its destination. Further, the order of physical verification and inspection issued in MOV-02 lapsed on 02.08.2025 at 11:59 PM. She further submits that as per Rule 138C of the Rules of 2017, the goods in vehicle are in illegal detention. She relies on a circular dated 13.04.2018 issued by the GST Policy Wing to submit that it is mandatory to release the vehicle if no discrepancy is found in the rate, weight and the documents at the time of inspection and the action of the respondents in taking away the vehicle and the goods 250 Kms away from Bhiwadi to Jaipur was wholly illegal and unjustified. She further submits that the date of inspection was not extended, nor any seizure order was issued under GST MOV-06. On the other hand, summons for personal appearance of the supplier were issued on 01.08.2025, to which reply has been filed stating that the goods have reached their destination in Bhiwadi with e-

invoice, e-way bills, GR and weightment slips and there is no variation.

5. Learned counsel further submits that the officer's action was not only *mala fide* but illegal and *void ab initio*. She has taken this Court to various provisions of the Act of 2017, which we would refer at later part of our judgment, to submit that it is a case of undue harassment by the officers of the Enforcement Wing of Rajasthan, who have invoked the sections which could not be applied to the goods that have already reached their destination. She submits that the raid was conducted on 30.07.2025 and INS-1 and INS-2 had been issued, but the seizure of the vehicle was not done and only mobile phones were requisitioned. Learned counsel submits that neither truck has been released, nor goods have been alleged to be moved. The tax was already paid before the vehicle commenced its journey and there is no evasion of tax.

6. Learned counsel has invited our attention to Section 68 of the Act of 2017 read with Rule 138 to Rule 138C of the Rules of 2017 in support of her submissions. It is her submission that the petitioner suffered loss to the tune of Rs.18,000/- i.e. Rs.2,000/- per day for 9 days on account of illegal detention and no GST MOV-6 has been issued for detention of the vehicle. Learned counsel submits that as no show cause notice was issued for physical verification and inspection of the goods and merely fishing and roving enquiry has been conducted, the respondents must be called upon for their illegal action. The procedure laid down in Section 68 of the Act of 2017 is binding and the same ought to have been followed.

7. The respondents have filed their reply stating therein that the petitioner, in active collusion with a cartel of entities operating across Delhi, Haryana, Punjab and Himachal Pradesh, orchestrated a systematic and well designed scheme to defraud the public exchequer by fabricating and manipulating a chain of sham transactions. In furtherance of fraudulent design, the petitioner has unlawfully availed and claimed input tax credit (ITC) exceeding Rs.100 crores on the strength of invoices purportedly originated by non-existent, de-registered or suspended firms of Delhi, which firms have been misused for passing on fake credit by exploiting the return-furnishing pattern and mechanism provided on the GST front-end portal. While the petitioner devised and deployed a fictitious supply chain showing procurement of goods from different States, namely, Punjab, Himachal Pradesh and Haryana, in reality the movement of goods was falsely routed through non-existent, deregistered or suspended entities located in Delhi. The alleged supplier firms had never procured goods worth even a single rupee, but they have declared outward supplies by filing statements of outward supplies electronically, thereby creating artificial outward liability in their liability ledgers. These bogus entities, with nil or empty credit ledgers, offset the same by claiming fake credit through GSTR-3B. The same was being done on account of the fact that the GST electronic system does not provide an automated crosscheck between a taxpayer's liability ledgers and its credit ledgers. Taking advantage of this systemic gap, fake credit was circulated in the supply chain, which ultimately culminated in fraudulent utilization by the petitioner, who is the ultimate beneficiary. It has been submitted that the

said aspect constitutes grave and deliberate economic sabotage. The petitioner has acted in a manner amounting to gross abuse of statutory provisions, which it is stated, strikes at the root of the statutory mechanism conceived for ensuring transparency, accountability and compliance within the GST regime.

8. It is further stated that on coming to know about such action, the concerned Director of the company, which was earlier known as M/s Tsumitomo Airtech Pvt Ltd. Mr. Gaurav Kakad was arrested on 04.11.2022 under Section 132 read with Section 69 of the CGST Act. The respondents have further stated that the company changed its name of M/s Korflex Industries Pvt. Ltd., but continued to have the same GST number. The Directors were changed and one Mr. Ankit Goyal was inducted as Director. On 10.05.2023 Shri Goyal was replaced by Shri Peeyush Sharma along with Shri Ravi Garg. However, they did not change their modus operandi. Instances have been mentioned relating to various companies which were found to be non-existent firms, or those whose registration had already been cancelled.

9. In the said background, it has been stated that on physical interception of the goods and vehicle and upon recording the statement of the driver and goods in-charge, Shri Raghuraj Pratap Singh, it was unequivocally disclosed that the goods in question had, in-fact, originated from Delhi, though the documents reflected supply from Haryana-based firm. The vehicle was, therefore, lawfully immobilized and detained. The respondents have stated that the concerned firm M/s SS Industries, upon investigation, has been found to be a conduit entity in the purchase of bogus invoices, for which an enquiry has already been

conducted by Haryana GST Department. The said M/s SS Industries has claimed supply from Delhi-based firm, M/s Galaxy Enterprises. Upon verification, it was conclusively established that no such firm exists at the declared address and the so called supplier was a fictitious entity. Thus, it raised foundational question as to who, in-fact, commenced the movements of goods in the vehicle RJ-32-GE-9020, and on whose behalf were such goods loaded? Thus, the present case was asserted by the respondents to be a case of tax evasion, although the respondents have admitted the facts generally mentioned by the petitioner relating to vehicle and the goods. It is stated that the vehicle was stationed at Jaipur only as proper officer has its office at Jaipur and since action was taken in terms of Section 68 of the Act of 2017, a lawful order was issued under form MOV-02. Every vehicle proceeded against by the Enforcement Wing, Rajasthan Jaipur, is always stationed at Jaipur office only. The form MOV-04 was issued on 31.07.2025 and, therefore, it is submitted that there was no requirement to issue form MOV-03 for extension of the period for such physical verification. It is asserted that the case falls within the ambit of Section 130 of the Act of 2017 and the proceedings under Section 130 of the Act of 2017 have been undertaken and summons were issued to the proprietors of M/s SS Industries Haryana for further investigation and to the owner of the vehicle Mr. Mahendra Kumar. Sharma. The documents in support of the action taken have also been placed on record.

10. Learned counsel appearing for the respondents submits that it is a case which involves possible evasion of tax and fraudulent documentation and, therefore, pleas taken by the petitioner would

be untenable in law. Since the investigation is still ongoing, the petitioner has yet to present his case relating to the discrepancies recorded in MOV-04, a show cause notice in form MOV-10 has not been issued. Learned counsel has further asserted that the "goods in transit" cannot only be restricted to mere physical movement of the goods, rather the movement has to commence with documents accompanying goods reflecting true and lawful origin of the supply.

11. It would be apposite to quote the relevant provisions of the Act. The provisions of CGST and similar provisions under the IGST and SGST relate to levy and collection of tax on supplies of goods, or services, or both, as laid down in Section 7 of the Act of 2017. Method of levy and collection is provided under Section 9 and the tax liability on composite and mixed supplies, as envisaged under Section 8, is required to be paid. The value of taxable supply is defined under Section 15 and the input tax credit is claimed in terms of Chapter V of the Act of 2017. The registration is required to be done for every supplier provided if aggregate turnover exceeds Rs. 20 lacs. The procedure for registration as well as cancellation, or suspension of registration is provided under Chapter VI. Chapter VII details out the manner in which tax invoice, credit notes and debit notes are prepared and provided on supply of goods or services. There is a procedure for self assessment, as provided under Chapter XII and the power of inspection, search, seizure and arrest is laid down under Chapter XIV of the Act of 2017.

12. For the present purpose, it would be apposite to quote Section 68 of the Act of 2017, which provides for inspection of goods in movement, as under:

"68. Inspection of goods in movement.- (1) *The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.*

(2) *The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.*

(3) *Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods."*

13. Sections 73 and 74 of the Act of 2017 laid down the provisions relating to demand of tax not paid or short paid. Section 129 empowers the detaining authorities to detain and seize the goods and also provides the manner and method for release of goods and conveyances in transit. Section 130 provides for confiscation of goods or conveyances and levy of penalty on five different conditions, which are provided thereunder. It would be apposite to quote Sections 129 and 130 of the Act of 2017 for the purpose as below:

"129. Detention, seizure and release of goods and conveyances in transit.- (1) *Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this 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,-*

[(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two 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 penalty;

(b) on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;]

(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

*(2) * * * * **

[(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).]

(4) [No penalty] shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.

(5) On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.

[(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):

Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:

Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.]

130. Confiscation of goods or conveyances and levy of penalty.- (1) [Where] any person-

(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(ii) does not account for any goods on which he is liable to pay tax under this Act; or

(iii) supplies any goods liable to tax under this Act without having applied for registration; or

(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,

then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:

Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:

Provided further that the aggregate of such fine and penalty leviable shall not be less than the [penalty equal to hundred per cent. of the tax payable on such goods]:

Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

(3) * * * * *

(4) No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.

(5) Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.

(6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.

(7) The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government."

14. In order to streamline the procedure to be followed for collecting, recovering and seizure, the Central Goods And Services Tax Rules, 2017 laid down the rules. The rules also provide the manner in which notice shall be served on the defaulters, or for the purpose of seizure of the goods. Rule 138 of the Rules 2017 lays down the information to be furnished prior to commencement of movement of goods and generation of e-way bill. Such information has to be specified in form GST EWB-01, which has to be placed on the common portal, whereupon a unique number would be generated. On the said portal, there is a validity period of the e-way bill provided in terms of Rule 138(10). Rule 138A lays down documents and devices to be carried by a person-in-charge of a conveyance, while Rule 138B allows verification of documents by authorized proper officer, who may intercept any conveyance. A physical verification of conveyances shall be carried out and a summary report is required to be prepared in terms of Rule 138C within twenty-four hours of inspection in Part A of form GST EWB-03 and final report shall be accorded within three days of such inspection in Part B of form GST EWB-03.

15. Rule 139 of the Rules of 2017 lays down the provisions which are to be followed while conducting inspection, search and seizure and the same is quoted as below:

"139. Inspection, search and seizure.- (1) *Where the proper officer not below the rank of a Joint Commissioner has reasons to believe that a place of business or any other place is to be visited for the purposes of inspection or search or, as the case may be, seizure in accordance with the provisions of section 67, he shall issue an authorisation in FORM GST INS-01 authorising any other officer subordinate to him to conduct the inspection or search or, as the case may be, seizure of goods, documents, books or things liable to confiscation.*

(2) Where any goods, documents, books or things are liable for seizure under sub-section (2) of section 67, the proper officer or an authorised officer shall make an order of seizure in FORM GST INS-02.

(3) The proper officer or an authorised officer may entrust upon the owner or the custodian of goods, from whose custody such goods or things are seized, the custody of such goods or things for safe upkeep and the said person shall not remove, part with, or otherwise deal with the goods or things except with the previous permission of such officer.

(4) Where it is not practicable to seize any such goods, the proper officer or the authorised officer may serve on the owner or the custodian of the goods, an order of prohibition in FORM GST INS-03 that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(5) The officer seizing the goods, documents, books or things shall prepare an inventory of such goods or documents or books or things containing, inter alia, description, quantity or unit, make, mark or model, where applicable, and get it signed by the person from whom such goods or documents or books or things are seized."

16. Rules 140 and 141 under Chapter XVII of the Rules of 2017

read as under:

"140. Bond and security for release of seized goods.-

(1) The seized goods may be released on a provisional basis upon execution of a bond for the value of the goods in FORM GST INS-04 and furnishing of a security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable.

Explanation.- For the purposes of the rules under the provisions of this Chapter, the "applicable tax" shall include central tax and State tax or Central tax and the Union territory tax, as the case may be and the cess, if any, payable under the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017).

(2) In case the person to whom the goods were released provisionally fails to produce the goods at the appointed date and place indicated by the proper officer, the security shall be encashed and adjusted against the tax, interest and penalty and fine, if any, payable in respect of such goods.

141. Procedure in respect of seized goods.- (1) Where the goods or things seized are of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such goods or things or the amount of tax, interest and penalty that is or may become payable by the taxable person, whichever is lower, such goods or, as the case may be, things shall be released forthwith, by an order in FORM GST INS-05, on proof of payment.

(2) Where the taxable person fails to pay the amount referred to in sub-rule (1) in respect of the said goods or

things, the [proper officer] may dispose of such goods or things and the amount realized thereby shall be adjusted against the tax, interest, penalty, or any other amount payable in respect of such goods or things."

17. The Form MOV-01, also known as Form INS-01 authorizes for inspection or search. Form MOV-02 is an order of seizure. It would be apposite to quote the various Forms, which are to be followed for the purpose of detention, seizure and release of goods as under:

"Form	
<i>GST MOV-01</i>	<i>Statement of the Owner/ Driver/ Person in Charge of the Goods and Conveyance</i>
<i>GST MOV-02</i>	<i>Order for Physical Verification/ Inspection of the Conveyance, Goods and Documents</i>
<i>GST MOV-03</i>	<i>Order of Extensions of Time for Inspection Beyond Three Working Days</i>
<i>GST MOV-04</i>	<i>Physical Verification Report</i>
<i>GST MOV-05</i>	<i>Release Order</i>
<i>GST MOV-06</i>	<i>Order of detention under Section 129(1) of the Central Goods and Services Tax Act, 2017 and the State/Union Territory Goods and Services Tax Act, 2017 / Under Section 20 of the Integrated Goods and Services Tax Act, 2017</i>
<i>GST MOV-07</i>	<i>Notice under Section 129 (3) of the Central Goods and Services Tax Act, 2017 and the State/Union Territory Goods and Services Tax Act, 2017 / Under Section 20 of the Integrated Goods and Services Tax Act, 2017</i>
<i>GST MOV-08</i>	<i>Bond for Provisional Release of Goods and Conveyance</i>
<i>GST MOV-09</i>	<i>Order of Demand of Tax and Penalty</i>
<i>GST MOV-10</i>	<i>Notice for Confiscation of Goods or Conveyances and Levy of Penalty under Section 130 of the Central Goods and Services Tax Act, 2017 read with the relevant provisions of State/Union Territory Goods and Services Tax Act, 2017/ the IGST</i>
<i>GST MOV-11</i>	<i>Order of Confiscation of Goods and Conveyance and Demand of Tax, Fine and Penalty</i>
<i>GST DRC-10</i>	<i>Notice for Auction of Goods u/s 79(1)(b) or section 129(6) of the Act"</i>

18. Taking into consideration the aforesaid provisions, if we consider the facts of the present case, as noticed above, we find that it is an admitted position that the procedure, as prescribed

for movement of the goods, was duly followed by the petitioner. The e-way bill and tax invoice dated 29.07.2025 were generated for the transit of the goods. The vehicle was GPS enabled and had reached its destination. In the circumstances, it cannot be said to be a vehicle in transit. The petitioner-company was required to receive the goods, which had reached to its destination, however the same were seized by issuing Form MOV-02. A perusal of the Form GST MOV-02, dated 30.07.2025 (Annexure P-16), reflects that the goods were allegedly intercepted at 11:20 AM on 30.07.2025, whereas the goods were already stationed outside the factory since 29.07.2025. We, therefore, find that the procedure adopted by the authorities was not in accordance with law. The reasons mentioned in GST MOV-02, as noted supra, do not reflect that there was no e-way bill. It is only that the genuineness of supplier of the goods for further verification was the reason for seizure of the conveyance for which the vehicle was directed to be parked at Jhalana Doongri, Jaipur. The photographs annexed as Annexure P-17 reflect that the concerned officer was in the petitioner-company's factory premises at 11:20 AM on 30.07.2025, where he entered at 11:16 AM. The proceedings, as initiated, therefore, seem to be not strictly in consonance with the provisions of the Act and it is primarily on account of officer having information relating to the concerned supplier, who apparently appears to be involved in evasion of tax.

19. As has come on record by the reply filed by the respondents, in the present transaction, M/s SS Industries, the supplier, is a Haryana-based company and has claimed supply from a Delhi-based concern, M/s Galaxy Enterprises. The e-way bill from Delhi

to Haryana firm has been placed on record. It has also come on record that there is no genuine firm like the present firm in the name of M/s Galaxy Enterprises. The Government of NCT, Delhi has communicated to the Chief Commissioner of State Tax, Rajasthan of the supplier, namely, M/s Galaxy Enterprises registered in ward-63, DT&T having GSTIN number, who is passing bogus ITC to M/s Korfex Industries. It appears that there was no company found to be existing on the address provided and the concerned officer after having thoroughly checked, found that it was a bogus firm. As per the note-sheet filed, it is apparent that the petitioner has availed bogus input tax credit from companies, whose registration already stood cancelled on the ground that they were all found to be sham and bogus firms. It would be apposite to notice that the petitioner has approximately 49 bogus suppliers, from which the concern petitioner-company allegedly having done the transaction.

20. While we find factually certain discrepancies done by the officer in carrying out the investigation and seizure of the vehicle with the goods and also that Form MOV-03 was not issued for extension of the period for physical verification, we find that MOV-04 was duly issued on 31.07.2025. The statement of the driver to whom MOV-01 was issued, reflects that he has got the goods loaded in the vehicle at Nangloi, Delhi at Hanuman Kanta, where goods were brought by loading in tempos, pickups and several other vehicles. Thus, it is a case where illegally the goods were collected from unknown persons and brought to the petitioner's factory, which *prima facie* is a case of evasion of tax. The confiscation of goods is required to be done by following the

provisions, as contained in Section 130 of the Act of 2017. One of the five conditions for applying the provisions of Section 130(4) of the Act of 2017, are where any person contravenes any of the provisions of the CGST Act or the rules made thereunder. The word 'contravenes' would also include an attempt by persons to take advantage of the provisions of the rules in a manner to evade tax. In other words, contravening the provisions of the act would also include the abuse of the process of law.

21. In the present case, we are satisfied that the petitioner has colluded with other persons to develop a systematic scheme to defraud the public exchequer. For this purpose, the petitioner has fabricated and manipulated sham transactions resulting in causing public loss to the public exchequer by claiming huge amount of input tax credit. While we agree with the learned counsel for the petitioner that the rules are required to be strictly followed for the purpose of seizure of goods and conveyances, as required under Section 129 of the Act of 2017, but if the purpose is to defraud the public exchequer and to take advantage of some loopholes, such a person cannot be given any benefit in law, or in equity. Admittedly, the GST provisions are in the nascent stage and there may be several trading problems which may arise, however on account of vigilance of the officers if they are able to catch such persons who have misused the provisions and have thereby taken advantage, this Court would always be in support of such officers and such actions of the State. The power under Article 226 of the Constitution of India has to be exercised for law abiding citizens and not to save and protect those who misused the provisions to their advantage.

22. It is a cardinal principle of equity jurisprudence that any party seeking a discretionary remedy must approach the Court with clean hands. The age-old maxim, "*he who comes into equity must come with clean hands,*" is not a hollow platitude but a substantive doctrine that serves as a bulwark for the administration of justice. Where any irregularity is apparent from the face of the record, the Court is duty-bound to cast its gaze widely, examining not merely the conduct directly connected to the matter at hand but also the antecedent conduct and pattern of behaviour of the litigant relevant to the matter, so as to ascertain whether the remedy sought is being deployed as an instrument of abuse of process. Such vigilance serves the paramount objective of preventing the judicial machinery from being weaponized by parties lacking bona fides, thereby preserving the sanctity and integrity of equitable jurisdiction.

23. The grant of equitable relief is a discretionary power of the court, predicated upon the bona fide conduct of the party seeking its intervention. As aforementioned that a litigant who approaches the court for a discretionary remedy must do so with clean hands. Where the petitioner's antecedent conduct in relation to the subject matter has been demonstrably inequitable and marked by a conspicuous lack of probity, such unconscionable acts vitiate his claim and render him disentitled to the equitable jurisdiction of this Court.

24. Furthermore, it is a settled canon of legal interpretation that an act which is forbidden by law to be done directly cannot be accomplished through indirect or circuitous means. The law is concerned with the substance of an action, not merely its form,

and it will not countenance any Scheme designed to bypass a statutory prohibition. The impugned action, when stripped of its superficial veneer, is nothing more than a colorable attempt to achieve an end that is expressly barred. To permit such a maneuver would be to sanction an evasion of the law, thereby defeating the very legislative intent behind the prohibition. This Court cannot lend its seal of approval to a subterfuge that seeks to render a legal mandate ineffective.

25. The aforesaid proposition is substantiated by the recent judgment of the Hon'ble Supreme Court in the matter of **Tomorrowland Ltd. v. Housing & Urban Development Corporation Ltd., (2025) 4 SCC 19**, wherein it has been held as follows:

*"56. It needs no emphasis that whosoever comes to the court claiming equity, must come with clean hands. The expression 'clean hands' connotes that the suitor or the defendant have not concealed material facts from the court and **there is no attempt by them to secure illegitimate gains**. Any contrary conduct must warrant turning down relief to such a party, owing to it not acting in good faith and beguiling the court with a view to secure undue gain. A court of law cannot be the abettor of inequity by siding with the party approaching it with unclean hands. This also brings to mind the oft-quoted legal maxim—he who seeks equity must do equity."*

26. In the present case, it has come on record that the petitioner generated fictitious outward liability through bogus entities with empty credit ledgers and claimed fake credit merely because in the present GST electronic system, there is no provision for automated crosscheck between a taxpayer's liability ledgers and its credit ledgers. The petitioner has exploited the systemic gap and succeeded in fraudulent returns creating circumventing fake

credit in the supply chain, which amounts to subverting and sabotaging the GST framework.

27. We, therefore, refrain from giving any benefit to such unscrupulous firms and persons and while dismissing the writ petition with cost, we also hope that the GST authorities shall plug such loopholes in their GST electronic system, so that in future people like the present petitioner may not take any advantage of it. We direct the authorities to proceed against the petitioner in terms of Section 130 of the Act of 2017 and also to initiate appropriate proceedings, which may be allowed under the provisions of the Act of 2017.

28. Resultantly, the writ petition is dismissed with cost of Rs.5,00,000/-, to be recovered from the petitioner-company through its Director. Pending application, if any, also stands dismissed.

29. The stay application also stands dismissed.

(SANJEET PUROHIT),J

(SANJEEV PRAKASH SHARMA),ACTING CJ

KAMLESH KUMAR/