IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Reserved On : 28/11/2025
Pronounced On : 11/12/2025

R/SPECIAL CIVIL APPLICATION NO. 9250 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 997 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 998 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 6877 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 9610 of 2025
With
CIVIL APPLICATION (DIRECTION) NO. 1 of 2025
In
R/SPECIAL CIVIL APPLICATION NO. 9610 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 8353 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 14603 of 2021
With
R/SPECIAL CIVIL APPLICATION NO. 7425 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 7426 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 7677 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 8387 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 10854 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 11235 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 11240 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 11560 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 11561 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 11958 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 13083 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 13232 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 15706 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 15707 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 20379 of 2022
With

R/SPECIAL CIVIL APPLICATION NO. 24180 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 25322 of 2022
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 25322 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 5525 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 5752 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 6405 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 6407 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 6493 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 6502 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 6509 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 6538 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 6539 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 6541 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 6542 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 7624 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 7938 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 8004 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 8891 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 10532 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 10663 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 11584 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 13219 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 13268 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 13334 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 13590 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 13605 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 13611 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 14610 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 1816 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 4409 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 5329 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 5373 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 5388 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 5413 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 5798 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 5821 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 8512 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 9021 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 9204 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 13222 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 13230 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 15859 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 17379 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 3929 of 2025
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R/SPECIAL CIVIL APPLICATION NO. 5716 of 2025
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R/SPECIAL CIVIL APPLICATION NO. 5939 of 2025
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R/SPECIAL CIVIL APPLICATION NO. 7039 of 2025
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R/SPECIAL CIVIL APPLICATION NO. 7116 of 2025
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R/SPECIAL CIVIL APPLICATION NO. 7169 of 2025
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R/SPECIAL CIVIL APPLICATION NO. 7170 of 2025
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R/SPECIAL CIVIL APPLICATION NO. 9857 of 2022
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R/SPECIAL CIVIL APPLICATION NO. 16709 of 2022
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R/SPECIAL CIVIL APPLICATION NO. 18815 of 2022
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R/SPECIAL CIVIL APPLICATION NO. 20732 of 2022
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R/SPECIAL CIVIL APPLICATION NO. 21071 of 2022
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R/SPECIAL CIVIL APPLICATION NO. 23460 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 23857 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 1504 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 5900 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 10562 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 13829 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 13928 of 2023
With
CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 13928 of 2023
With
CIVIL APPLICATION (FOR DIRECTION) NO. 2 of 2023
In
R/SPECIAL CIVIL APPLICATION NO. 13928 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 17882 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 17885 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 17897 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 18302 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 18402 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 18481 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 18485 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 18561 of 2023
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R/SPECIAL CIVIL APPLICATION NO. 864 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 1013 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 1196 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 1232 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 4677 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 5567 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 5827 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 10534 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 13183 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 16026 of 2025
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R/SPECIAL CIVIL APPLICATION NO. 14630 of 2024
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R/SPECIAL CIVIL APPLICATION NO. 7625 of 2025
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R/SPECIAL CIVIL APPLICATION NO. 11982 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 12474 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 15129 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 11687 of 2024
With
R/SPECIAL CIVIL APPLICATION NO. 12321 of 2025

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE A.S. SUPEHIA Sd/-
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI Sd/-

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Approved for Reporting	Yes	No
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M/S PANCHHI TRADERS
THROUGH ITS AUTHORIZED SIGNATORY NARENDRA DANABHAI DAKI
Versus
STATE OF GUJARAT
THROUGH DEPUTY COMMISSIONER (ENFORCEMENT) & ANR.

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Appearance:
MR TUSHAR HEMANI SR. ADVOCATE WITH MS. VAIBHAVI PARIKH, MR.AVINASH PODDAR – IN SCA NO.9250/2020, MR JATIN HARJAI FOR SUJAY ADESHRA - IN SCA NO.3929/25, MR CHETAN K. PANDYA - IN SCA NO.864/24, MR MONAL S. CHAGLANI - IN SCA 20732/2022), MR UCHIT N. SHETH - IN SCA NO.4409/24 AND MR HARDIK P. MODH - IN SCA NOS.13334/23 & 14028/23, ADVOCATES FOR THE PETITIONERS
MR KAMAL TRIVEDI, ADVOCATE GENERAL WITH MR VINAY BAIRAGRA,
MR HARSHVARDHAN SHARMA, MR UTKARSH SHARMA, MS. SHRUNJAL SHAH & MS NIMISHA PAREKH ASSISTANT GOVERNMENT PLEADERS FOR THE RESPONDENT(S) NO. 1,2

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CORAM: **HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

COMMON CAV JUDGMENT

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. In the present group of petitions, we are called upon to examine the contours of Sections 129 and 130 of the Central Goods and Services Tax Act, 2017 (for short, "the CGST Act"). In all these petitions, the petitioners are aggrieved by the action of the respondent–authorities for confiscation of goods which were seized during transit under Section 129 of the CGST Act.

2. The goods belonging to the present petitioners were seized and detained while in transit, i.e. the goods being transported in the conveyance (trucks/vehicles) were intercepted by the Proper Officer and upon examination of the e-way bills and other supporting documents, notices in Form GST MOV-10 were issued proposing confiscation of the goods.

3. Being aggrieved, the petitioners have challenged the said action of the respondents on various grounds.

4. The issues arise out of the amendment to Sections 129 and 130 of the CGST Act, made effective from 01.01.2022 by virtue of the Finance Act, 2021.

5. According to the petitioners, the respondents have mechanically invoked Section 130 of the CGST Act for confiscation of goods immediately upon interception under Section 129 of the CGST Act, which is impermissible in law.

6. Primarily, the following grounds are raised in the writ petitions:

(A) The respondent–authority/Proper Officer, who seizes and detains goods and conveyance in transit by exercising powers under Section 129 of the CGST Act, is required to complete the entire procedure prescribed under Section 129, which forms part of Chapter XIX of the Act. The authority cannot straightaway travel to Section 130 of the CGST Act for confiscation of the goods or conveyance while the process under Section 129 of the CGST Act is still underway.

(B) After the amendment brought into effect from 01.01.2022, Section 129 of the CGST Act retains the non-obstante clause, thereby giving it overriding effect over all other provisions, including Section 130 of the CGST Act. In contrast, the non-obstante clause that formerly existed in Section 130 of the CGST Act has been deleted. Therefore, the amended Section 129 of the CGST Act takes precedence in cases of detention and seizure of goods in transit.

(C) When the goods are detained and seized under Section 129 of the CGST Act and the process reaches the stage of issuance of Form GST MOV-07, the respondents cannot prematurely invoke Section 130 of the CGST Act and issue notice in Form GST MOV-10. The deletion of sub-section (2) of Section 129 of the CGST Act, which earlier provided for release of goods in accordance with Section 67(6) of the CGST Act, does not extinguish or curtail the power of the Proper Officer to release the goods under Section 67(6) of the CGST Act, even

after initiation of confiscation proceedings under Section 130 of the CGST Act. Hence, initiation of confiscation proceedings before conclusion of Section 129 of the CGST Act, proceedings is without jurisdiction and contrary to the statutory scheme.

SUBMISSIONS ON BEHALF OF THE PETITIONERS :

7. Learned advocates appearing for the petitioners have made the following submissions.

8. The pre-amended Section 129(6) of the CGST Act operated as a connecting link between Section 129 and Section 130 of the CGST Act. Although the pre-amended Section 129 of the CGST Act, provided for imposition of penalty, it contained no independent mechanism for recovery of such penalty in the event of non-payment. Consequently, Section 129(6) of the CGST Act, prior to its amendment, mandated initiation of confiscation proceedings under Section 130 of the CGST Act so that the title in the goods and conveyance could vest in the Government and the same could thereafter be auctioned for recovery of tax and penalty.

9. After the amendment to Sections 129 and 130 of the CGST Act, Section 129 of the CGST Act has now become a self-contained and complete code for dealing with contraventions relating to goods in transit. Under the amended Section 129(6) of the CGST Act, provision has been made for auction of the goods or conveyance in the event of non-payment of penalty imposed under Section 129(4) of the CGST Act. Therefore, there is no necessity or statutory justification for invoking

Section 130 of the CGST Act in cases where proceedings are initiated under Section 129 of the CGST Act.

10. Section 129 of the CGST Act is a special provision governing detention of goods in transit, and once goods are detained, the entire mandate of Section 129 of the CGST Act must be strictly followed. Therefore, once goods are detained under Section 129 of the CGST Act, the complete procedure under the said provision must be undertaken, as Section 129 of the CGST Act, being a special provision containing a non-obstante clause, shall prevail over other provisions of the Act, including Section 130 of the CGST Act.

11. The non-obstante clause has been consciously removed from Section 130 of the CGST Act and retained in Section 129 by the Finance Act, 2021, thereby completely delinking both provisions. Accordingly, in the event of any conflict, Section 129 shall supersede Section 130 of the CGST Act.

12. Section 130(1) of the CGST Act permits confiscation of goods or conveyance in the situations listed from clauses (i) to (v). The purpose of confiscation, as apparent from Section 130(1), is to safeguard the recovery of the penalty which may be imposed under Section 122 of the CGST Act. Hence, it is submitted that the purpose of confiscation under Section 130(1) is to safeguard the recovery of penalty.

13. Having resorted to the proceedings under Section 129 of the CGST Act, including issuance of Form GST MOV-06, the authorities are bound to complete proceedings under Section

129 and cannot resort to Section 130 as an alternative route. Reliance is placed on the decision of the Supreme Court in the case of M/s ASP Traders vs. State of U.P. & Ors., (2025) 7 TMI 1525.

14. No statutory rules or forms expressly provide for proceedings under Section 129 of the CGST Act, and therefore the procedural mechanism has been introduced through Circular No.41/15/2018-GST dated 13.04.2018, which is impermissible, since the proceedings under Section 130, Rules 139 to 141, are already prescribed along with Forms INS-01 to INS-05, and hence any form or procedure contrary to the rules and brought in by circular is *ultra vires* the statute. The circular dated 13.04.2018, having been issued prior to the amendment, is no longer applicable in the post-amendment regime.

15. In any case, if confiscation proceedings are initiated under Section 130 of the CGST Act, after detention under Section 129 of the CGST Act, then such confiscation must be treated as seizure under Section 67(6) of the CGST Act. Consequently, provisional release of goods must be granted under Section 67(6), since the said provision mandates provisional release of goods on payment of tax, interest and penalty, or upon furnishing security. Reliance is placed on the judgment of this Court in the case of Dhanlaxmi Metals vs. State of Gujarat (passed in SCA No.15680 of 2021, decided on 28.07.2022).

16. Section 130 of the CGST Act begins with the phrase “where any person supplies or receives goods in contravention of any of the provisions of this Act with intent to evade tax”. Therefore, the foundation of Section 130 is an established intent to evade tax, which cannot be presumed from a mere e-way bill defect. Such intent can only be discovered through search and seizure conducted under Section 67 of the CGST Act, which is the only statutory mechanism empowering the department to investigate tax evasion.

17. The Proper Officer, at the time of seizure and detention of goods in transit, is not empowered to undertake assessment or conclude that there was an intention to evade tax. Such satisfaction must be reached by a higher authority and therefore Section 130 cannot be invoked by the officer intercepting the goods. Accordingly, goods detained or seized are liable to be released upon fulfillment of conditions under Section 129 of the CGST Act.

18. The interpretation of both Sections 129 and 130 must be strictly literal. No addition, deletion, assumption or presumption is permissible, and neither hardship nor equity has any role in construing taxing statutes. Reliance is placed upon the judgment of the Supreme Court in the case of State of West Bengal vs. Kesoram Industries Ltd.**,** (2004) 10 S.C.C. 201.

19. *Albeit*, Section 67(6) of the CGST Act, does not expressly refer to conveyance, it refers to “thing”, which includes conveyance. Therefore, Section 67(6) can be invoked even

after resorting to Section 130 for confiscation of either goods or conveyance. Section 2(91) of the CGST Act, defines “Proper Officer”, and as per Circular No.F.No.34975/2017-GST dated 09.02.2018, powers under Section 130 are to be exercised only by the jurisdictional officer. Confiscation powers under Section 130(1) are delegated to the Assistant Commissioner / State Tax Officer, whereas powers relating to detention and seizure of goods in transit under Section 129 of the CGST Act, lie with the Proper Officer defined under Section 2(91) of the CGST Act.

20. Reliance is placed on the judgment of the Karnataka High Court in the case of Rajiv Traders vs. Union of India, (2022) 142 Taxmann.com 420 (Karnataka), which holds that the Proper Officer may initiate proceedings under Sections 73 or 74 in cases where tax is unpaid due to error or fraud, but cannot convert detention proceedings under Section 129 of the CGST Act into confiscation proceedings under Section 130 of the CGST Act, since confiscation cannot be effected without compliance with Article 300A of the Constitution of India. Reliance is placed on the judgement of the Apex Court in the case of State of W.B. vs. Sujit Kumar Rana, (2004) 4 S.C.C. 129.

21. Section 130(1) of the CGST Act, 2017, as submitted earlier, is intended to secure the recovery of the penalty that may be imposed under Section 122 of the CGST Act, on account of any of the situations listed from clause (i) to (v). Section 130(6) of the CGST Act, 2017 provides that a 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. It is submitted that Section 130 of the CGST Act, 2017, contains no safeguards while exercising the powers of confiscation and also fails to provide any mehcanism to effect the manner of sale and consequential actions.

22. Rule 144A of the CGST Rules, 2017, introduced by Notification No.40/2021-CT dated 29.12.2021, effective from 01.01.2022, provides a separate mechanism for recovery of penalty under Section 129(1) of the CGST Act. This was introduced pursuant to the amendments under the Finance Act, 2021, delinking Sections 129 and 130 of the CGST Act.

23. The insertion of Rule 144A and amendment of Rule 154 of the CGST Rules, 2017, with effect from 01.01.2022, clearly provide that the Rules provide for only three mechanisms for dealing with the sale and appropriation of sale proceeds against the dues, viz. Rule 144 (for detaining and selling the movable property); Rule 144A (for selling the goods and conveyance detained u/s 129) and Rule 147 (for attachment or distraint and sale of property, including movable property). Hence, the legislative amendment under Sections 129 and 130 vide Finance Act, 2021, made effective from 01.01.2022 read with the insertion of Rule 144A and amendment to Rule 154, clearly indicates that both the provisions (i.e., Sections 129 and 130) are made independent.

24. The Notice in MOV-10 invoking Section 130 cannot be issued merely on suspicion or portal data discrepancies, since such discrepancies may be at the end of a supplier’s supplier.

Reference is made to Shiv Enterprises vs. State of Punjab, 2022 (2) TMI 296.

25. The term "goods" is defined under Section 2(52) of the CGST Act, to include movable property of all kinds, thus, a conveyance/ vehicle used for transportation, being a movable asset, falls within the definition of "goods" and thereby can be seized if used in connection with taxable goods or in the furtherance of alleged evasion, and hence the same can be released provisionally under Section 67(6) of the CGST Act.

SUBMISSIONS OF LEARNED ADVOCATE GENERAL ON BEHALF OF THE RESPONDENT – AUTHORITIES :

26. Learned Advocate General appearing for the respondents has submitted that in view of the judgment of the Division Bench of this Court in the case of Synergy Fertichem Private Limited Vs. State of Gujarat, (2019) 12 TMI 1213 (HC-Guj.), all the present writ petitions deserve to be rejected, since the very same contentions now raised by the petitioners were considered and dealt with by the Coordinate Bench. It is submitted that the Division Bench, after analysing the provisions of Sections 129 and 130 of the CGST Act, in their pre-amended form, addressed all the concerns similar to those raised in the present petitions. It is contended that even after the amendment to Sections 129 and 130 of the CGST Act, there is no material impact on the findings recorded by the Division Bench while dealing with analogous issues.

27. It is submitted that the power under Section 130 of the CGST Act, can always be invoked against dealers evading tax

by transporting goods in conveyances, and that upon seizure and detention of goods during transit by the Proper Officer, if such officer finds gross evasion of tax, he may invoke Section 130 of the CGST Act, by issuing notice in Form MOV-10.

28. Learned Advocate General has highlighted the specific findings and conclusions recorded in the case of ***Synergy Fertichem Private Limited (supra)***, wherein the Coordinate Bench held that Section 130 is not dependent upon Section 129(6), and that Sections 129 and 130 of the CGST Act are mutually exclusive and independent. Therefore, the argument of the petitioners based on removal of the non-obstante clause from Section 130 of the CGST Act and its purported de-linking from Section 129 of the CGST Act is irrelevant, as the Division Bench has already held that the provisions operate independently. He further submitted that reference to Sections 73 and 74 of the CGST Act by the petitioners is wholly unnecessary for interpreting Sections 129 and 130 of the CGST Act, as all these provisions are separate and self-contained, which position has been clearly laid down in the said judgment.

29. It is therefore contended that the Division Bench has already held that there is no statutory bar on the authorities from invoking Section 130 of the CGST Act for confiscation of goods that were initially seized and detained under Section 129 of the CGST Act. Reliance is placed on the judgment of the Supreme Court in the case of Mohammad Abdul Samad vs. State of Telangana and Ors., (2025) 2 S.C.C. 49**.**

30. Learned Advocate General has further submitted that the purpose of a non-obstante clause is to give overriding effect only where there is a conflict between the said provision and any other provision of the same statute or any other law. Since there is no conflict between Sections 129 and 130 of the CGST Act, the non-obstante clause in Section 129 of the CGST Act has no implication in the present matter except in cases of actual conflict. A non-obstante clause does not *ipso facto* nullify or override succeeding provisions of the Act.

31. Accordingly, it is urged that the present writ petitions are liable to be rejected in view of the categorical observations of the Division Bench in the case of ***Synergy Fertichem Private Limited (supra)***.

ANALYSIS AND CONCLUSION : -
ANALYSIS OF PROVISIONS SECTION 129 AND 130.

32. The grievance of the petitioners, as well as the impugned action of confiscation emanates from the provisions of Sections 129 and 130 of the CGST Act. Both provisions were subjected to substantial amendment with effect from 01.01.2022 under the Finance Act, 2021. It is pertinent to note that the amendments appear to have been introduced in the backdrop of the judgment of the Coordinate Bench of this Court in the case of ***Synergy Fertichem Private Limited (supra).*** We may, at this stage incorporate the relevant final conclusions of division bench in the case of **Synergy Fertichem Private Ltd(supra).**

> ***"FINAL CONCLUSION:-***
> ***182*** *We would sum up our conclusion of the points raised in the writ*

applications as follows;
"(i) Section 129 of the Act talks about detention, seizure and release of goods and conveyances in transit. On the other hand, Section 130 talks about confiscation of goods or conveyance and levy of tax, penalty and fine thereof. Although, both the sections start with a non-obstante clause, yet, the harmonious reading of the two sections, keeping in mind the object and purpose behind the enactment thereof, would indicate that they are independent of each other. Section 130 of the Act, which provides for confiscation of the goods or conveyance is not, in any manner, dependent or subject to Section 129 of the Act. Both the sections are mutually exclusive.
(ii) The phrase "with an intent to evade the payment of tax" in Section 130 of the Act assumes importance. When the law requires an intention to evade payment of tax, then it is not mere failure to pay tax. It must be something more. The word "evade" in the context means defeating the provisions of law of paying tax. It is made more stringent by use of the word "intent". The assessee must deliberately avoid the payment of tax which is payable in accordance with law. However, the element of mens rea cannot be read into Section 130 of the Act.
(iii) For the purpose of issuing a notice of confiscation under Section 130 of the Act at the threshold, i.e., at the stage of detention and seizure of the goods and conveyance, the case has to be of such a nature that on the face of the entire transaction, the authority concerned should be convinced that the contravention was with a definite intent to evade payment of tax. The action, in such circumstances, should be in good faith and not be a mere pretence. In other words, the authorities need to make out a very strong case. Mere suspicion may not be sufficient to invoke Section 130 of the Act straightway.
(iv) If the authorities are of the view that the case is one of invoking Section 130 of the Act at the very threshold, then they need to record their reasons for such belief in writing, and such reasons recorded in writing should, thereafter, be looked into by the superior authority so that the superior authority can take an appropriate decision whether the case is one of straightway invoking Section 130 of the Act.
(v) Even if the goods or the conveyance is released upon payment of the tax and penalty under Section 129 of the Act, later, if the authorities find something incriminating against the owner of the goods in the course of the inquiry, if any, then it would be permissible to them to initiate the confiscation proceedings under Section 130 of the Act.
(vi) Section 130 of the Act is not dependent on clause (6) of Section 129 of the Act.
(vii) Sections 129 and 130 respectively of the Act are mutually exclusive and independent of each other. If the amount of tax and

penalty, as determined under Section 129 of the Act for the purpose of release of the goods and the conveyance, is not deposited within the statutory time period, then the consequence of the same would be forfeiture of the goods and the vehicle with the Government. This does not necessarily imply that the confiscation proceedings can be initiated only in the event of the failure on the part of the owner of the goods or the conveyance in depositing the amount towards the tax and liability determined under Section 129 of the Act.

(viii) For the purpose of Section 129(6) of the Act, it would not be necessary for the department to establish any intention to evade payment of tax. If the tax and penalty, as determined under Section 129, is not deposited within the statutory time period, then the goods and the conveyance shall be liable to be put to auction and the sale proceeds shall be deposited with the Government.

(ix) Similarly, the reference to Sections 73 and 74 respectively of the Act is not warranted for the purpose of interpreting Sections 129 and 130 of the Act, more particularly, when they all are independent of each other. The provisions of Sections 73 and 74 of the Act are similar to the provisions of Section 11A of the Central Excise Act and Section 28 of the Customs Act, which deal with the adjudication proceedings. Despite this, Section 110 is present in the Customs Act, which speaks about seizure and similarly, Section 129 is present in the Act for detention/seizure. Therefore, Sections 129 and 130 of the Act have non-obstante clauses, whereby they can be operated upon in spite of Sections 73 and 74 of the Act.

(x) The provisions of sections 73 and 74 respectively of the Act deal with the 'demands and recovery' to be made by the assessing officer based upon the assessment, whereas the provisions of Section 129 of the Act deal with the 'detention/ seizure'. While assessing the returns, if the assessing officer finds that the amount of tax has not been paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized for any reason, either with mala fide intention or without the same, as the case may be, the provisions of Section 73/74 of the Act would be invoked. However, the provisions of Section 129 of the Act deal with situation where the evasion of tax/contravention of the Act/Rules is detected during transit itself, requiring the adoption of summary like proceedings. Therefore, the said provisions operate in different spheres.

(xi) xxxxxxx

(xii) xxxxxxxx

(xiii) Although there is no serious challenge to the validity of the provisions of Sections 129 and 130 respectively of the Act, yet it is a settled principle of law that the power to levy tax includes all the incidental powers to prevent the evasion of such tax. The power to seize and confiscate the goods in the event of evasion of tax and the power to levy penalty are meant to check tax evasion and is intended to operate as a deterrent against the tax-evaders and are,

therefore, ancillary or incidental to the power to levy tax on the goods and thus, fall within the ambit and scope of the legislative powers.

(xiv) xxxxxx
(xv)xxxxxx
(xvi) The extraordinary powers under Article 226 of the Constitution, directing for release of the vehicles or goods, during the pendency of the confiscation, can only be sparingly exercised under extraordinary situations and circumstances when injustice occurs because of non-fulfillment of the conditions for confiscation."

33. Thus, prior to amendment, i.e before deletion of non-obstante clause in Section 130 of the Act, this Court has comprehensive delved into the provisions and similar submissions while considering the effect of non-obstante clause in both the sections. However, a fresh attempt is made to convince after the amendment of the provisions of Sections 129 and 130. The division bench has emphatically held that Section 130 of the CGST Act, which provides for confiscation of the goods or conveyance is not, in any manner, dependent or subject to Section 129 of the CGST Act, and they are independent of each other and are mutually exclusive. It is held that even if the goods or the conveyance is released upon payment of the tax and penalty under Section 129 of the CGST Act, later, if the authorities find something incriminating against the owner of the goods in the course of the inquiry, then it would be permissible to them to initiate the confiscation proceedings under Section 130 of the CGST Act. The Coordinate Bench has also dealt with the submissions made with reference to Sections 73 and 74 of the Act, and it is specifically, held that, the reference to Sections 73 and 74 respectively of the Act is not warranted for the purpose of

interpreting Sections 129 and 130 of the Act, more particularly, when they all are independent of each other.

34. Since, the petitioners have reiterated the submissions after the amendments i.e retaining the non-obstante clause in Section 129, whereas deleting the same in Section 130, we are examining the matters in this context.

35. In order to ascertain the purpose behind the amendments made by the Parliament, we have examined the Minutes of the 39th GST Council Meeting held on 14.03.2020. The proposal for amendment of Sections 129 and 130, and consequentially Sections 74 and 107 of the Act, was expressly discussed. The Minutes indicate that the intention of the Council was to delink the transit-related proceedings under Section 129 of the CGST Act from the proceedings of confiscation under Section 130 of the CGST Act. Agenda Item No.11(4) records the following proposals:

> (a) to make proceedings under Section 129 of the CGST Act, independent of Section 130 of the CGST Act;
>
> (b) to omit Sections 129 and 130 of the CGST Act from the Explanation to Section 74, in order to treat seizure and confiscation as separate proceedings distinct from recovery of tax under Sections 73 and 74; and
>
> (c) to insert a new sub-section in Section 107 providing for payment of 25% of the penalty imposed under Section 129 of the CGST Act for filing an appeal.

36. The Memorandum explaining the provisions of the Finance Bill, 2021 issued by the Government of India also reinforces this legislative intent. At Serial No. 10 and 11, which reads as under : -

> Sr. No. 10 – "Section 129 of the CGST Act is being amended to delink the proceedings under that section relating to detention, seizure and release of goods and conveyances in transit, from the proceedings under Section 130 relating to confiscation of goods or conveyances and levy of penalty."
>
> Sr. No. 11 – "Section 130 of the CGST Act is being amended to delink the proceedings under that section relating to confiscation of goods or conveyances and levy of penalty from the proceedings under Section 129 relating to detention, seizure and release of goods and conveyances in transit."

37. Clauses 108 and 109 of the Finance Bill are also similarly worded.

> *"**Clause 108:***
> *This clause amended Section 129 of the Central Goods and Services Tax (CGST) Act to separate the process of detaining, seizing, and releasing goods in transit from the process of confiscation and penalty.*
> ***Clause 109:***
> *This clause amended Section 130 of the CGST Act to create a clear separation for the confiscation of goods and the imposition of penalties.*

38. Accordingly, necessary amendments were introduced in both provisions. For ready comparison, Section 129 of the CGST Act prior to amendment and post amendment reads as under:

(FOR CONVENIENCE : THE DELETED WORDS ARE STROKED THROUGH AND THE ONE WHICH ARE REPLACED ARE IN BOLD)

"***Section 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 the ~~applicable tax~~ penalty equal to ~~one hundred~~ **(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 tax and penalty;*

   *(b) on payment of the ~~applicable tax and~~ 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**) ~~reduced by the tax amount paid thereon~~ 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 tax and 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. *~~The provisions of sub-section (6) of Section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.~~*

3. *The proper officer detaining or seizing goods or conveyances shall issue a notice **(within seven days of such detention or seizure),** specifying the ~~tax and~~ penalty payable and thereafter pass an order**(within a period of seven days from the date of service of such notice,**) for payment of*

~~tax and~~ penalty under clause (a) or clause (b) or clause (c).

4. *No ~~tax~~, ~~interest or~~ penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.*
5. *On payment of the amount referred to 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 the goods fails to pay the amount of ~~tax and~~ penalty* ***under*** *~~provided~~ ~~in~~ sub-section (1) within ~~fourteen~~* ***(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 within such time as may be prescribed, to recover the penalty payable under sub-section(3)*** *~~of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of Section 130.”~~*

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

Provided 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 seven days may be reduced by the proper officer.

SECTION 130 :

Confiscation of goods or conveyances and levy of penalty

(1) Notwithstanding anything contained in this Act, 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 amount of (penalty equal to hundred per cent of the tax payable on such goods) leviable under sub-section (1) of section 129:

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) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.

(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."

39. It is significant to note that while the non-obstante clause opening with “Notwithstanding anything contained in this Act” has been retained in Section 129 of the CGST Act, the same has been deleted from Section 130 of the CGST Act. Section 130 of the CGST Act now commences with the expression “Where any person” in place of the earlier non-obstante clause.

40. It is also observed that in Section 129 of the CGST Act, the words “applicable tax” have been deleted and substituted with “tax payable” in clauses (a) and (b), and the quantum of penalty earlier computed on the basis of applicable tax has undergone significant enhancement. The earlier penalty of 100% has now been increased to 200% under clause (a), and the earlier penalty of 50% under clause (b) has also been replaced with 200% of the tax payable. Thus, while the unamended Section required computation of penalty on the basis of the applicable tax on goods detained in transit, the amended provision requires the penalty to be calculated on the tax payable on such goods.

41. The process of search, seizure, detention and confiscation of goods is carried out through the mechanism of MOV forms issued under Circular dated 13.04.2018. When goods in transit are intercepted, the Proper Officer records the statement of the driver or the person in charge of the conveyance in the prescribed MOV form. The different stages and forms involved in the proceedings are as under:-

	Form Numbers	**STAGES**
1	MOV-01	Recording of statement of owner/driver or person in charge of goods & conveyance
2	MOV-02,	physical verification / inspection of goods, documents, conveyance
3	MOV-03	Extension of inspection period beyond three working days
4	MOV-04,	Physical verification report of owner/person in charge
5	MOV-05	Release order after seizure and confiscation on payment of tax and penalty
6	MOV-06,	Detention order in view of discrepancies and notice specifying tax / penalty till release under MOV-5
7	MOV-07	For payment of tax and penalty within seven days under section 129(3)
7	MOV-08	Bond/security for provisional release
8	MOV-09	Final penalty and speaking order. Failure to pay tax and penalty within 7 days will invite confiscation
9	MOV-10, MOV-11	Confiscation notice and order (If penalty unpaid/escalated)

42. The grievance of the petitioners commences from the stage of issuance of MOV-06 or MOV-07 and thereafter directly jumping to MOV-10 or MOV-11, which pertain to notice and order of confiscation.

43. It is the case of the petitioners that since the provisions of Sections 129 and 130 of the CGST Act are now delinked, and even prior to amendment were required to be treated as separate provisions, confiscation of goods cannot be resorted to by invoking Section 130 of the CGST Act by issuance of MOV-10 or MOV-11 midway, without completing the entire procedure contemplated under Section 129 of the CGST Act.

44. On the other hand, it is the stand of the Revenue that once it is found that there is a blatant evasion of tax at the stage of seizure and detention of goods under Section 129 of the Act, the authorities are empowered to proceed for confiscation of goods or conveyance and it is not necessary to resort to Section 67, which falls under Chapter XIV relating to search and seizure undertaken by the Proper Officer not below the rank of Joint Commissioner at the premises of a trader engaged in transporting goods for evading tax or contravening the provisions of the Act or the Rules.

45. It is the case of the petitioners that though the reference to Section 67(6) of the CGST Act, has been deleted from Section 129 of the CGST Act, goods can still be released on provisional basis as envisaged under Section 67(6), even after confiscation. The relevant provisions of Section 67(6) read as under:

> *"67. (6) The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be."*

46. The provisions of Sections 129 and 130 of the CGST Act envisage that detention, seizure and confiscation are distinct stages of action. Detention indicates temporary withholding of goods and vehicle at the point of interception pending verification of documents or suspicion of GST violations; during this stage, goods cannot be moved until verification regarding documents such as e-way bill, invoice, suspected undervaluation or evasion, or minor clerical errors is

completed. Seizure is the next stage where the Proper Officer seizes the goods and conveyance upon confirmation of such irregularities or illegalities. Confiscation is the final and rigorous stage, undertaken only when violations are established and penalties are not paid.

47. Prior to amendment of Section 129 of the CGST Act, goods seized and detained during transit were released by resorting to Section 67(6), which provided for provisional release of goods on payment of the penalty specified therein. However, this provision has now been omitted by Parliament, and release of goods is now governed exclusively by payment of penalty under Section 129 of the CGST Act. Therefore, once Section 67(6) is deleted and separated from Section 129 of the CGST Act, invocation of Section 67(6) would not arise after such omission.

48. The Circular N0.41/15/2018-GST, dated 13th April, 2018 prescribes the procedure for interception of conveyance for inspection of goods in movement, and detention, release and confiscation of such goods and conveyance. The same is issued under the provisions of section 168 of the CGST Act, which empowers the Competent Authority to issue orders, instruction or directions to the lower authorities to bring in uniformity in the implementation of the CGST Act. When the statute enables the government department to issue administrative instructions in the form of Circulars for regulating the complex procedure in line with the provisions of statute, the same cannot be set aside unless it is in sheer violation of the main statute. We do not find that the Circular

infringes the statutory provisions. Various forms as mentioned below are prescribed. Paragraph (l) of the Circular empowers the proper officer to give notice under Form MOV-10 for confiscation of goods and conveyance directly detained and seized under transit. The relevant paragraph(l) of Circular dated 13th April, 2018 and extract of MOV-10 are incorporated as under:

> *"Paragraph 2(l) of the Circular dated 13th April, 2018*
>
> *2. (l) Where the proper officer is of the opinion that such movement of goods is being effected to evade payment of tax, he may directly invoke section 130 of the CGST Act by issuing a notice proposing to confiscate the goods and conveyance in FORM GST MOV-10. In the said notice, the quantum of tax and penalty leviable under section 130 of the CGST Act read with section 122 of the CGST Act, and the fine in lieu of confiscation leviable under sub-section (2) of section 130 of the CGST Act shall be specified. Where the conveyance is used for the carriage of goods or passengers for hire, the owner of the conveyance shall also be issued a notice under the third proviso to sub-section (2) of section 130 of the CGST Act, proposing to impose a fine equal to the tax payable on the goods being transported in lieu of confiscation of the conveyance*
>
> ***FORM MOV-10***
>
> *" 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 INTEGRATED GOODS AND SERVICES TAX ACT, 2017 AND GOODS AND SERVICES TAX (COMPENSATION TO STATES) ACT, 2017*
>
> *The conveyance bearing No._____ was intercepted by _____ (Designation of the proper officer) on _____ (date) at _____(time) at_____(place). The statement of the driver/person in charge of the vehicle was recorded on _____(date).*
>
> *2. The goods in movement was inspected under the provisions of subsection (3) of section 68 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State Goods and Services Tax Act / Section 21 of the Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and*

Services Tax Act read with subsection (3) of section 68 of the Central Goods and Services Tax Act on _____(date) and the following discrepancies were noticed.
(i)
(ii)
(iii)
3. In view of the above, the goods and conveyances used for the movement of goods were detained under sub-section (1) of section 129 of the Central Goods and Services Tax Act, 2017 read with subsection (3) of section 68 of the State/ Union Territory Goods and Services Tax Act or under section 20 of the Integrated Goods and Services Tax Act read with subsection (3) of section 68 of the Central Goods and Services Tax Act by issuing an order of detention in FORM GST MOV 06 and the same was served on the person in charge of the conveyance on ____ (date). Along with the order of detention in FORM GST MOV 06, a notice was issued in FORM GST MOV 07 under the provisions of sub-section (3) of section 129 of the Central Goods and Services Tax Act, 2017, specifying the tax and penalty payable in respect of the goods in question.

4. Subsequently, after observing the principles of natural justice, an order demanding the applicable tax and penalty was issued in FORM GST MOV-09 on _____(Date) and the same was served on the person in charge of the conveyance. However, neither the owner of the goods nor the person in charge of the conveyance came forward to make the payment of applicable tax and penalty within the time allowed in the order passed supra.
5. In view of this, the undersigned proposes to confiscate the above goods and the conveyance used to transport such goods under the provisions of section 130 of the Central Goods and Services Tax Act, 2017 read with State Goods and Services Tax Act / section 2 of the Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Tax Act, 2017/Goods and Services Tax (Compensation to States) Act, 2017. In addition, you are liable to pay the tax, penalty and other charges payable in respect of such goods and the conveyance.
OR

As the goods were transported without any valid documents, it is presumed that the goods were being transported for the purposes of evading the taxes. In view of this, the undersigned proposes to confiscate the above goods and the conveyance used to transport such goods under the provisions of section 130 of the Central Goods and Services Tax Act, 2017 read with the relevant provisions of the State Goods and Services Tax/Union Territory Goods and Services Tax Act, the Integrated Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, 2017. In addition,

you are liable to pay the tax, penalty and other charges payable in respect of such goods and the conveyance.
XXXXX
7. You are hereby directed to show cause, within seven days from the receipt of this notice, as to why the goods in question and the conveyance used to transport such goods shall not be confiscated under the provisions of section 130 of the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, 2017 and why the tax, penalty and other charges payable in respect of such goods and the conveyance shall not be payable by you.

8. You are hereby directed to appear before the undersigned on DD/MM/YYYY at HH/MM

If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex-parte on the basis of available records and on merits."

49. A combined reading of paragraph 2(l) of the Circular dated 13th April, 2018 , and FORM-MOV-10 exposits that it authorizes a proper officer to issue notice directly for confiscation of goods and conveyance only in such cases, where he/she forms an opinion that the movement of goods has been effected for "evasion" of tax. Thus, the quintessential feature is of forming an opinion of "evasion" of tax. Thus, from the stage of "detention" to "seizure" the proper officer is authorized to form an opinion for "confiscation" under section 130 of the CGST Act, which a harsh action taken against the dealer/trader. This power is also derived from the provisions of Rule 138B, which is discussed later on. At this stage, we may refer to the provision of section 67 of the CGST Act, which prescribes power of inspection, search and seizure. The relevant provisions are extracted as under:

"***Section 67. Power of inspection, search and seizure.-***

(1) Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that-
(a) a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or
(b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,
he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.
(2) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things:
Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:
Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.
(3) xxxxxx

(4) xxxxxxx

(5)xxxxxxx.
(6) The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be."

50. The provision of Section 67(1) of the CGST Act, if closely read, clarifies that the power of inspection, search and seizure relates to the inspection of places of business of the taxable person or the persons engaged in the business of transporting goods or owner of the operator of warehouse or godown or any other place. Sub-section(2), of Section 67 of the CGST Act, further authorizes a proper officer not below the rank of Joint Commissioner to “seize” those goods, which are “liable for confiscation”, along with the goods, documents or books or things. Thus, the language of sub-section(2) does not enable the proper officer to confiscate the goods, but to seize those goods which in his opinion are “liable to confiscation”. By applying the doctrine of *noscitur a sociis* ("a word is known by the company it keeps"), it cannot be said that the word “things” used in this clause would also encompass “conveyance”. The word “things” has to be read with the company which it keeps, i.e. documents or books, and can be “articles” found during inspection.

51. On the deletion of the sub-section(2) of Section 129, vide Finance Act, 2021, the provisional release of goods as provided under Section 67(6) for the goods seized and detained under Section 129 will no longer will be available. The provision of sub-section(2) which connected the provisional release of goods and conveyance with Section 67(6) of the CGST Act appears to have be precisely snapped, since the provision of Section 67(6) of the CGST Act, does not refer to the release of “conveyance” seized during transit. Section 67(6) of the CGST Act, only uses the word “goods”, whereas Section 129 of the

CGST Act, refers to both, i.e. goods and conveyance, which are seized during transit. Hence, it is hard to comprehend that for seizure of goods, the provisional release is available, but for the conveyance from which the goods are seized, the proper officer is required to follow the procedure prescribed in the amended Section 129 of the CGST Act. Hence, once the goods and conveyance are seized, no remedy of provisional release of the same is available under Section 67(6) of the CGST Act after the amendment, and only remedy is the one prescribed under Section 129 of the CGST Act.

52. Having held as above, we may delve in to the provision of Section 130 of the CGST Act. The provisions of Section 130 of the CGST Act, has the caption “confiscation of goods or conveyances and levy of penalty”. Thus, Section 129 of the CGST Act provides for seizure and detention of goods and conveyance during transit, whereas Section 130 directs confiscation of goods or conveyances. The provision of Section 130, if read in juxtaposition with Section 67 of the CGST Act, it is borne out that, the ‘goods’ which are seized during the inspection and search on the premises/warehouses under Section 67 of the CGST Act, and are liable to be confiscated, can be confiscated under Section 130 and the person, who supplies, receives, or stores good, having intention to evade tax then the goods can be confiscated and such person shall be liable to penalty under Section 122 of the CGST Act, and also fine. The seizure and confiscation of ‘goods’ under Sections 67 and 130 of the CGST Act, is interlinked with the expression “ intention of evasion of tax”. Thus, after such

“seizure” of goods, if the goods are not confiscated, they can be provisionally released under the Section 67(6). The confiscation of the goods or conveyance, and their release/disposal is embedded in Section 130 of the Act, and not under Section 129.

53. So far as the seizure of ‘conveyance’ is concerned, the same can be resorted during transit under Section 129 of the CGST Act and for confiscation under Section 130 of the CGST Act. The word “conveyance” is missing in Section 67 of the Act, and can only be found in Sections 129 and 130 of the CGST Act. “Conveyance” is distinctly defined in Section 2(34) of the Act, whereas “Goods” has been defined in Section 2(52), which means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. Thus, “conveyance” has been kept out of scope and ambit of definition of “goods”, hence the same are differently used in the provisions of Sections 129 and 130 of the CGST Act. However, the ‘conveyance’ used by any person for transporting goods with an intent to evade payment of tax is liable to be confiscated, as the conveyance/vehicle would be an integral and intrinsic part of goods, which are transported with an intention to evade tax.

54. The intention of the parliament to delink provisions of section 129 and 130 is apparent from the statement and object of Finance Act. Both the sections provide different approach to be adopted by the authorities and also specify different

penalties. Section 130 of the Act, has the grave consequences as the goods or conveyance, after confiscation vests in the government. Both the Sections operate within their contour, unless they are bridged by the element of “intention to evade tax”. It does not mean that the goods or conveyance seized during transit cannot be subjected to confiscation. It will be a hostility to the provisions of both Sections 129 and 130 of the CGST Act, if they are viewed with myopic vision. The petitioners have asserted that by retaining the non-obstante clause in Section 129, the same becomes a complete code in itself and has overriding effect on Section 130 of the Act, and hence the authorities have to complete the entire process envisaged under Section 129 of the Act and are precluded from resorting confiscation under Section 130 midway. However, we do not subscribe to the interpretation as advanced. It is true, that the provision of Section 129 has retained the non-obstante clause which mentions about the overriding effect on the provisions of the entire Act. The effect of non-obstante clause is that the entire procedure prescribed under Section 129 of the CGST Act has to be followed, and the action of seizure of goods and conveyance is required to be brought to its logical end as per the provisions of Section 129 of the CGST Act only. However, the only caveat is that the goods and conveyance which are seized can be confiscated under Section 130 of the CGST Act, if they involve an element of “intention to evade payment of tax”. The legislature cannot be attributed the intention of absolute ignoring the provision of Section 130 of the CGST Act, even if there is blatant evasion of payment of tax, which is apparent, when a conveyance is

intercepted during transit. When a authorized officer intercepts the vehicle carrying goods, and on the non-presentation or presentation of the forged documents, the ambiguous description of the goods, the wrong declaration of place from where the goods are loaded and the destination, the route adopted in transit, etc, if he finds that such methodology is adopted, with an intention to evade the payment of tax, he/she can resort to the process of confiscation of the goods and conveyance, after seizure, as provided in the Circular dated 13.04.2018 read with Rule 138B.

55. The petitioners have placed reliance on the decision of the division bench of this Court in case of ***Dhanlaxmi Metals (supra).*** The division bench has not touched upon the issue raised in the present petitions, while holding that the provision of Section 129 would not operate once the show cause notice under Section 130 in Form MOV 10 is issued by the GST authority. Reliance is also placed on the judgment of Single Judge of Karnataka High Court in case of Rajeev Traders(supra). The observations of Karnataka High Court runs contrary to the final conclusion of division bench of this Court in case of **Synergy Fertichem Private Ltd (supra).** Hence, we are not inclined to hold the decision, which is contary to the decision of the Division Bench of this Court.

EFFECT OF DELETION OF NON-OBSTANTE CLAUSE FROM SECTION 130 OF THE ACT

56. Strenuous submissions are advanced by the petitioners on the non-obstante clause being retained in Section 129 of the Act, while deleting from Section 130 of the CGST Act.

Numerous decisions are cited, however, we are not inclined to refer to them since the effect and operation of a non-obstante clause is no more *res integra*. We shall in succinctly refer to the consequence of use of non-obstante clause in context of Section 129 of the Act. It is settled legal precedent that "A non-obstante clause is usually appended to a Section in the beginning with a view to give the enacting part of the Section, in case of a conflict, an overriding effect over the provision or Act mentioned in the non-obstante clause. In other words, in spite of the provision or the Act mentioned in the non-obstante clause, the enactment following it will have its full operation or that the provisions embraced in the non-obstante clause will not be an impediment for the operation of the enactment. Thus, a non-obstante clause is a legislative device used by a Parliament or legislature sometimes to give an overriding effect to what has been specified in the enacting part of a section in case of a conflict with what is contained in the non-obstante clause as stated above." ***(vide Mohd.Abdul Samad, supra).*** Thus, albeit the non-obstante clause has been retained in Section 129 of the Act, and will have an overriding effect on other provisions of the Act including Section 130, however, it will have no impediment on the operation of the Section 130 of the Act. On an overall analysis of the scope and sphere of operation of both the Section, it is evident that there is no conflict in both the Sections. The quintessential feature which distinguishes and enlarges the scope of Section 130 from Section 129 of the Act is the *"intent to evade the payment of tax"*. There is no conflict between the sections as far as the forming an opinion on intention of evasion of tax.

The provisions of Section 129 are stand alone provisions as far as no element of intention of evasion of tax is involved. As held by this Court in case of ***Synergy Fertichem Private Ltd (supra***), there is no bar in invoking the provision of Section 130 of the act for confiscation at threshold, if on the seizure of goods and conveyance it is found that the entire transaction reveals the intention to evade the tax . We are not convinced to take a different view as expressed by the coordinate bench, merely because the provisions have been amended, by deleting the non-obstante clause from Section 130 of the Act, while retaining it in Section 129.

ANALYSIS OF MOV FORMS AND CONFISCATION

57. In order to appreciate the manner and approach of the authorities/proper officers, while resorting to issuance of FORM-MOV-10 and 11 for confiscation, the details of few matters are as under:

Sca.7625/25	Mov-6 issued on 05.03.25	MOV-10 issued on 18.03.25	
864/24	Mov-4 issued on 28.11.23	Mov-10 on 11.12.23	
9250/20	Mov-4 dated 23.12.19	Mov-10 dated 24.12.2019 issued to driver after the search done on premises -found closed. Corrected issued on 13.01.2020	MOV-10 issued to driver
4677/24	Mov-4 dated 04.02.2024	Mov.7 for detaining goods/penalty	Mov-10 dated 12.10.24
4409/24	Mov-6 dt.03.12.23.	Mov-10. Dated 14.12.23	Spot inspection done at premises
14088/23	Mov-4 Dt.29.06.23	Mov.6- dt.29.6.23	Mov.10-29.6.23

13334/23	Mov-4 dt.16.12.22	Mov.-6-dt. 22.12.22	Mov. 10-dt.29.12.22
9021/24	MOV-6-28.05.2024 Vehicle interecepted on 26.05.2024	MOV-10-28.05.2024	Fake bills, data verifyied through portal
13222/24	MOV-6-DT.23.07.24-intercepted on 21.07.24	MOV-10; DT.31.07.2024:	Invalid documents: presumption of evasion. Same officer in 6 and 10. State Tax Officer
3929/25	Mov-6; dt.16.02.25. Intercepted on 13.02.25	MOV-10; DT.21.02.25	Invalid documents presumption of evasion. Same officer in 6 and 10. State Tax Officer

58. An examination of the details as mentioned hereinabove, it is evident that on an interception of a vehicle/conveyance under Section 68 of the CGST Act, after the issuance of FORM-MOV- NO.4 (physical verification report), and MOV-6(Release Order), MOV-7(for Tax and Penalty), the authorities have issued MOV-10 (for confiscation). It is also noticed that after the seizure of vehicle and the goods, the authorities have also undertaken search/inspection at the premises of the dealers, and thereafter issued MOV-10 to the Driver since the premises are found closed. Even after the release of goods by issuing MOV-6, MOV-10 has been issued, which is permissible in cases of evasion of tax. Under sub-section(3) of section 129, the proper officer has to issue notice within a period of seven days

of detention and seizure of the foods or conveyance, and necessary orders have to be passed within seven days under clause (a) or (b) of Section 129(1), i.e, issue MOV-7. It appears from the aforementioned details, that the proper officer or the authorised officers has not adhered to the time line as specified in the section. The Scheme and the pattern in which the FORM-MOV's are arraigned will make us understand that release of conveyance and goods, which are confiscated is provided in MOV-5 on payment of tax, penalty, fine in lieu of confiscation of goods and conveyance. We may refer to Rules 138B and 138C of the CGST Rules, 2017, which govern the verification of documents and conveyances.

> ***Rule 138B – Verification of documents and conveyances***
> *(1) The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra State movement of goods.*
> *(2) The Commissioner shall get Radio Frequency Identification Device readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the eway bill has been mapped with the said device.*
> *(3) The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf:*
> ***Provided** that on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.";*
>
> ***Rule 138C – Inspection and verification of goods***
> *(1) A summary report of every inspection of goods in transit shall be recorded online by the proper officer in **Part***
> ***A** of **FORM GST EWB-03** within twenty four hours of*

*inspection and the final report in **Part B** of **FORM GST EWB-03** shall be recorded within three days of such inspection.*

*[1]Provided that where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in **Part B** of **FORM EWB-03**, for a further period not exceeding three days.*

*[1]**Explanation.**– The period of twenty four hours or, as the case may be, three days shall be counted from the midnight of the date on which the vehicle was intercepted.*

(2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently."

59. Rule 138B of the CGST Rules, 2017, stipulates of physical verification of documents and conveyance by the Commissioner or an officer empowered by him after the interception of conveyance in case of evasion of tax. Sub-rule (3) further provides for physical verification of conveyance by the authorised officer or an officer empowered by the Commissioner. The proviso to Rule 138B brings in the element of evasion of tax. It is prescribed that in case any specific information relating to the "evasion of tax" is received, the physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf. Thus, an officer, who intercepts a vehicle/conveyance on receiving an information on evasion of tax, can carry out physical verification, and it can also be done any other officer as authorised by the Commissioner. However,

it has to be done by an officer after obtaining necessary approval from the Commissioner or an officer authorised on his behalf. As per the Circular No.3/3/2017 dated 5th July 2017, the proper officer to take action under Section 130(6) and (7) is the Deputy or Assistant Commissioner of Central Tax, whereas as per the Order dated 23rd June, 2017 issued by the Commissioner of State Tax, Gujarat State, Ahmedabad, by invoking powers under sub-section(1) of Section 5 read with Clause(91) of Section (2) of the Gujarat Goods and Service Tax Act, 2017, the jurisdictional proper officer to carry necessary function under 130(1) to (7) is Assistant Commissioner of State Tax Officer. Thus, the action taken under FORM MV-10 and 11 for confiscation of goods or penalty other than the Officer having jurisdiction as mentioned herein above will be without authority and illegal.

60. If the provision of Rule 138B of the CGST Rules, 2017, are read in juxtaposition with the Circular dated 13th April, 2018 to examine the facet of “evasion of tax” for the Goods in transition, at the stage of interception of goods, it is not necessary to undertake any exercise to establish evasion of tax by doing a search at the premises or place of the dealer. The goods and conveyance are liable to be confiscated, if it is found that there is blatant violation of the evasion of tax, while ferrying the goods through transit, and each inspection, seizure and inspection depends on the facts of the case, and no blanket direction can be issued to the respondents restricting them for examining the intention of evasion of tax.

LIMITATIONS FOR EXAMINING EVASION OF TAX FOR GOODS AND CONVEYANCE SEIZED DURING TRANSIT

61. At the stage of interception of goods during transit as provided under Section 68 of the CGST Act and seizure and detention under Section 129 of the CGST Act, the proper officer, in case he/she finds that there is no 'intention to evade the payment of tax', then the authorized officer has no other option, but to strictly follow the entire procedure as prescribed under Section 129 of the Act, and the provisions of Section 130 cannot be resorted to. It will be fallacious to hold that for confiscating the goods and conveyance in transit, the authorities have to fall back to the provisions of Section 67, and only after actual evasion of tax is established after search under and seizure, the goods and conveyance can be confiscated. The proper officer, at the time of seizure and detention of the goods under Section 129 of the Act has to form an opinion regarding "intention" to evade payment of tax, and such intention can be gathered from the attendant circumstances. However, we clarify, that since the action of confiscation is the last resort, and invites serious consequences, the same cannot be resorted to only on suspicion, bereft of any concrete material, and on ipse dixit. The proper officer has to examine the genuineness of the documents, invoices, e-way bills, consignment note, registration particulars produced at the time of interception. The formation of opinion of 'intent to evade tax', on the act or omission of a person, who is not proximately or directly linked to such activity with the dealer cannot be made the foundation for confiscation of goods.

62. We may at this stage clarify, that the Ministry of Finance, Department of Revenue Central Board of Indirect Taxes , has issued a Circular No.CBEC/20/16/03/2017-GST dated the 14th September, 2018 clarifying the Circular Nos.41/15/2018-GST dated 13.04.2018 and 49/23/2018-GST dated 21.06.2018. The relevant extract is as under:

> *"4. Whereas, section 129 of the CGST Act provides for detention and seizure of goods and conveyances and their release on the payment of requisite tax and penalty in cases where such goods are transported in contravention of the provisions of the CGST Act or the rules made thereunder. It has been informed that proceedings under section 129 of the CGST Act are being initiated for every mistake in the documents mentioned in para 3 above. It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated.*
> *5. Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:*
> *a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;*
> *b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;*
> *c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct; d) Error in one or two digits of the document number mentioned in the e-way bill;*
> *e) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;*
> *f) Error in one or two digits/characters of the vehicle number.*

63. Thus, in case, there are first degree minor aberrations in the documents such as the difference in value shown in the e-way bill and the delivery challan, minor error in vehicle number, etc, as referred in the Circular dated 14th September,

2018, the proper officer cannot seize the goods and conveyance. If the violation is of second degree, inviting contravention of the provision of Act or Rule, where the element of intention of evasion to pay the tax is not involved, the person/dealer shall be allowed to resort to remedy of paying penalty as specified under Section 129 of the CGST Act, and on payment of amount referred in sub-section(1), all proceedings in respect of the notice specified in sub-section(3) stands concluded. In case, the amount is not paid, such goods are liable to be sold or disposed as per provisions of sub-section (6). In view of the foregoing clarification, only in case of blatant violation or contravention of provisions of the Act or Rules, which has direct nexus with the intention to evade payment of tax, the confiscation of goods and conveyance, during transit can be resorted.

64. In order to invoke the severe action of confiscation of goods and conveyance, during transit, the contravention/ infringement has to be of the highest degree, such as absence of documents or fake or forged documents, absence of details of dealer, forged e-way bills, a complete deceptive/ divergence/ mismatch of goods, fake registration, etc. which apparently establishes the ‘intention to evade payment of tax’. We may also clarify that the proper officer cannot venture into the assessment and valuation of goods at the time of interception of vehicle, and resort to seizure and confiscation of goods and conveyance by resorting to the entries in portal, and digging out the evasion of tax, etc of third parties.

TIME LINE FOR FORMING THE OPINION OF EVASION OF TAX FOR THE GOODS IN TRANSIT :

65. Under Rule 138C of the CGST Rules, 2017, the proper officer has to prepare a summary report of every inspection of goods within 24 hours in Part-A of FORM GST-EWB-4 and the final report in Part B of such form has to be recorded in three days, however, the period of three days can be extended for further period of three days by the Commissioner or by any officer authorised by him, if circumstances warrant. Such request of extension of time is as per FORM MOV-03. Thus, the limitation of preparing the final report FORM- MOV-04, after inspection and verification of the conveyance and goods cannot be extended beyond the period of **six** days. In case, it is found that there is blatant evasion of tax, then the goods and conveyance can be seized, and FORM MOV-10 can be issued. Hence, for the goods which are in intercepted and are in transit, the opinion of "intention to evade the payment of tax', has to be confined within the aforesaid period for confiscation, and if no opinion is formed, the goods and conveyance are required to be released by resorting to the provisions of Section 129 of the CGST Act. However, as held by the coordinate bench in case of in case of ***Synergy Fertichem Private Limited (supra)***, even if the goods or the conveyance is released upon payment of the tax and penalty under Section 129 of the Act, and subsequently, if the authorities find something incriminating against the owner of the goods in the course of the inquiry, if any, then it would be permissible to them to initiate the confiscation proceedings under Section 130 of the Act. Thus, in case the no opinion of

“intention to evade tax” is formed during the time frame, and the conveyance is release, and later on, the goods which are released after seizure, can be confiscated if something incriminating which is serious in nature has been found.

66. Numerous decisions of the Supreme Court and decisions of various High Courts have been referred and relied upon by learned advocates appearing for the petitioners without examining the applicability of the ratio raised in such decisions to the issues raised in the present writ petitions, viz, the overruled decision in case of ***Sujit Kumar Rana (supra*)**, decision in the case of **Kesoram Industries Ltd. (supra)**, which relates to confiscation of forest produce and exercise of power under section 482 of Cr.PC. Hence, in order to avoid prolixity in the judgment, we are not dealing with the decisions, which are irrelevant and have no bearing on the issue. Reliance placed on the judgement of the Supreme Court in case of ASP Traders(supra) is misconceived, since the same does not deal with the issue raised before us, and is confined to the inaction of the proper officer in not passing any order under Section 129(3) of the Act despite payment of penalty.

FINAL ORDER

67. On the substratum of the foregoing analysis of provisions of law and facts, we are of the opinion that the present petitions are required to be disposed in light of the foregoing observations, without examining the merit of the respective Notice of Confiscation. All the matters are remanded to the respondent-authorities by issuing following directions.

A) The Notices issued under FORM MOV-10 or Order under FORM MV-11 shall be re-examined in light of the aforesaid observations.

B) In case, it is found that the confiscation Notice or Confiscation runs contrary to the observations made in the present judgement and order, the same shall be withdrawn.

C) The goods or conveyance, seized during transit shall be released by resorting to the provisions of Section 129 of the Act in case any infringement is found under that Section.

D) Since, in some of the matters, the goods which are confiscated are already released, such release is made subject to final outcome of confiscation proceedings, and if there is stay operating on confiscation, the same shall continue to operate till final order is passed.

E) In case, the authorities find that confiscation is imminent, then such action shall not be taken for period of two (02) weeks to enable the petitioners to approach this Court again.

F) Necessary orders shall be passed within a period of 12 weeks from the date of receipt of the writ of this order.

G) We also clarify that since the action of confiscation is harsh and severe, and directly impacts the trade, business and financial aspects, in case it is found that the authorised officers have acted in defiance of the observations made by this Court, then they shall be liable to be prosecuted for committing contempt of Court.

68. With these observations and directions, the present writ petitions stand disposed of. As a sequel, the civil applications do not survive and are accordingly disposed of. RULE made absolute to the aforesaid extent. No order as to costs.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(PRANAV TRIVEDI,J)

MAHESH/01 & 02

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: MAHESH OMPRAKASH BHATI(HC01086), PRIVATE SECRETARY, at High Court of Gujarat on 11/12/2025 13:49:39