



2026:AHC:29738

Judgment reserved on 29.1.2026.

Judgment delivered on 11.2.2026.

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 122 of 2026

with

WRIT TAX No. - 124 of 2026

M/S Shri Baba Traders

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : N. C. Gupta, Sr. Adv., Arjit Gupta
Counsel for Respondent(s) : R.S.Pandey, ACSC.

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Mr. S.C. Gupta, learned Senior counsel assisted by Mr. Arjit Gupta for the petitioner and Mr. R.S. Pandey, learned ACSC for the respondents.
2. Similar controversy involved in all the aforesaid writ petitions, therefore, with the consent of the parties, both the writ petitions are being decided by a common judgment treated Writ Tax No. 122 of 2026 as leading case.
3. By means of the present writ petition the petitioner has assailed the order dated 18.12.2025 passed by respondent no.3 and the appellate order dated 24.12.2025 passed by the respondent no. 4.
4. Learned counsel for the petitioner submits that the petitioner is a registered firm under the GST Act in the State of Jharkhand and is engaged in the business of purchase and sale of iron bars and angles. In the normal course of business the petitioner purchased goods from M/s S.S.Enterprises, Andhua Fatti Sainik Colony, 40 Putta Road, Hodal Palwal, Haryana, which issued tax invoice. The goods were on its journey when the same intercepted and detained on the ground that no e-way bill was accompanying the goods.

He further submits that the goods were detained on 3.12.2025 at 7.05 p.m. and MOV 01 was issued on 4.12.2025. The statement of the driver was recorded on 5.12.2025; physical verification of the goods was recorded on MOV 04 and on 10.12.2025 the detention order was passed in MOV 06. Thereafter MOV07, show cause notice was issued on 18.12.2025 for imposing penalty for release of goods under section 129(1)(b) of the Act to which the petitioner submitted its reply as owner of the goods and requested for release of the goods in terms of section 129(1)(a) of the Act. He further submits that since the petitioner being the owner of the goods have come forward as recipient/owner, the goods ought to have been released in terms of the Circular No. 76/50/2018 GST dated 31.12. 2018. He further submits that merely because e-way bill was not accompanying the goods, seizure order has been passed.

5. In support of his submissions, he has relied upon the Division Bench judgments of this Court in Writ Tax No. 1297 of 2023 (**M/s Halder Enterprises vs. State of U.P. and others**) (Neutral Citation No. 2023: AH C 227182-DB); Writ Tax No. 4095 of 2025 (**Beena Traders and others vs. State of U.P. and others**) (Neutral Citation No. 2025: AHC 153372-DB); Writ Tax No. 2016 of 2025 (**Ram Enterprises vs. State of U.P. and others**) (2025 NTN 494); Writ Tax No. 3026 of 2025 (**S.S. Enterprises vs. State of U.P. and others**) (Neutral Citation No. 2025: AHC 108857-DB) and the judgment of Single Bench in Writ Tax No. 1464 of 2022 (**S/S S.K. Trading Co. and anoter vs. Additional Commissioner Grade 2 Appeal and other**) (Neutral Citation No. 2023: AHC 66095).

6. Per contra, learned ACSC supports the impugned order and submits that the petitioner cannot be treated as owner of the goods as no specified document as required under the Act was accompanying the goods in transit. He further submits that the petitioner has admitted the fact that at the time of issuing of the tax invoice the registration of the supplier/seller of the goods was suspended from 21.11.2025. **Once the registration of the supplier of the goods was suspended neither tax invoice could be issued by it nor e-way bill could be generated.** He further submits that if the petitioner is alleging to be the owner of the goods, ought to have generated the e-way bill as prescribed under the rules but at its own wisdom had not generated the e-way bill, therefore, the judgments cited by the learned counsel for the petitioner are

not applicable on the facts and circumstances of the present case and is of no aid to the petitioner.

7. After hearing the learned counsel for the parties, the Court has perused the records.

8. It is not in dispute that the supplier of the goods i.e. M/s S.S. Enterprises, Haryana, has issued tax invoice on 3.12.2025 whereas the petitioner itself in reply to the show cause notice has admitted the fact that the e-way bill could not be generated as registration of the supplier was suspended w.e.f. 21.11.2025. No material has been brought on record to show that the suspension of registration of the petitioner's supplier has been restored. The reply to the show cause notice has been annexed as Annexure 10 (pages 82 to 85) at point no. 4 at page no. 84 it has specifically been admitted and stated by the petitioner that e-way bill could not be generated as the supplier's registration was under suspension. Once the registration of the supplier has admittedly been suspended, even no tax invoice could be issued.

9. Rule 21-A(3) of the UPGST Rules 2017 restrains for issuing of tax invoice during the period of suspension of registration, which reads as follows:

"21A. Suspension of registration (1).... (2)....

(3) A registered person, whose registration has been suspended under sub-rule (1) or (2) (or sub-rule (2-A), shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.

(Explanation- For the purpose of this sub-rule, the expression shall not make any taxable supply shall mean that the registered person shall not issue a tax invoice and accordingly not charge tax on supplies made by him during the period of suspension)."

10. Further section 2 (66) of the UPGST Act prescribes invoice or tax invoice means the tax invoice referred to in section 31. Section 31 refers who and how the tax invoice can be issued and it specifically provides that the registered person can only issue tax invoice.

11. Record reveals that the tax invoice issued by the supplier to the

petitioner, copy of which has been annexed as Annexure 4 (pages 55-56) cannot be treated as genuine tax invoice and covered as specified documents prescribed under the rules and the Act.

12. The petitioner alleging to be the owner of the goods was required to issue/generate e-way bill as prescribed under Rule 138(3) of the Rules. The GST Act empowers the registered person for generating the e-way bill. E-way bill can be generated by the supplier to the recipient or the transporter. In the case in hand, it is admitted fact of the petitioner that the movement of goods was made from an unregistered supplier as on the issuance of tax invoice registration of the supplier was under suspension. No material has been brought on record to show that the supplier's registration has been restored. It was the duty of the petitioner that before movement of consignment it should have furnished information relating to the said goods as specified in Part A Form GST- EWB 01 respectively at the common portal along with such other information as required at the common portal i.e. e-way bill, but the petitioner at its own wisdom has not done so. Once there is no specified documents accompanying the goods as no e-way bill was found, the tax invoice which was found accompanying the goods cannot be treated as specified documents in view of Rule 21-A (3) of the Rules along with sections 2(66) and 31 of the Act. Once there is neither any prescribed document or tax invoice accompanying the goods in transit, the Circular dated 31.12.2018 Clause (6) is of no aid to the petitioner.

13. Various division Bench judgments have been referred by the learned counsel for the petitioner leading of which is **M/s Halder Enterprises** (supra). In the said judgment the Court has specifically recorded the facts in paragraph no. 5 that the goods of the petitioner therein were seized on the ground that the consigner and consignee were declared as non-existent as the registration of the firm was suspended subsequently to the detention and seizure order but the Court found that at the time of movement of goods the registration was valid and proper tax invoice & e-way bill belonging to the petitioner therein were present, therefore, on the basis of Circular dated 31.12.2018 the goods were directed to be released in terms of section 129(1)(a) of the Act. Following the said judgment, on the facts almost similar, in all other cases, the Court directed for release of the goods in terms of section 129 (1)(a) instead of Section 129(1)(b) of the Act. In the

case of **S/S S.K. Trading Co.**(supra) only Part-B of the e-way bill was not filled, therefore, following the judgment of this Court the goods were directed to be released in terms of section 129(1)(a) of the Act.

14. In the present case, it is admitted fact that the registration of the supplier was suspended on 21.11.2025, tax invoice was issued hereafter on 3.12.2025 and the suspension of registration of the supplier is not revoked. Further e-way bill as required under Rule 138(3) has not been generated before passing of the seizure order by the petitioner. The petitioner cannot be treated as owner of the goods as no specified documents could be found accompanying the goods.

15. In the facts and circumstances as well as reasons stated herein above, no interference is called for with the impugned orders.

16. Both the writ petitions fail and are dismissed.

(Piyush Agrawal,J.)

February 11, 2026

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