

Pawan Carrying Corporation v. State of Bihar and Another

Case number: Civil Writ Jurisdiction Case No. 3499 of 2024

Citation: 2024(2) eILR(PAT) HC 1536

Decision date: 29 February 2024

Section 129(3) detention: separate seven-day limits for notice and adjudication

Court: High Court of Judicature at Patna

Bench: Hon'ble Chief Justice K. Vinod Chandran and Hon'ble Mr. Justice Harish Kumar

Decision stage: Final High Court decision on statutory notice/order limitation; detention orders set aside and immediate release directed. Underlying evasion merits expressly unexamined.

01 Facts of case and issues

Pawan, a carrier, transported tobacco from Kanpur to Dalkola through Bihar. Its vehicle was intercepted on 22 December 2023. The detention order was dated 28 December, the Section 129(3) notice 5 January 2024, and the final order 15 January. The e-way bills recorded UP78 CT 9645, whereas the intercepted vehicle bore UP78 CT 9650. Pawan said both vehicles belonged to it.

Pawan challenged both statutory timelines. The State relied on the driver's later verification request, submission of authority on 2 January, and the petitioner's requests for time. The Court had to decide whether these circumstances could sustain proceedings outside Section 129(3). The challenge concerned detention and penalty in this particular movement, rather than a general assessment of Pawan's tax liability.

Pinpoint: Paragraphs 1–4 and 6, physical pp. 2–5 (judgment pp. 1–4).

02 Discussion by Hon'ble Court

The Bench rejected any need to await the driver's application before inspecting goods already intercepted and detained. Even accepting the Department's later detention date of 28 December, the 5 January notice exceeded seven days. The petitioner's request for time did not excuse an order outside the separate seven-day period running from service of notice: the authority could have refused the adjournment and decided within time.

Paragraph 8 applied the substituted Section 129(3), and paragraph 9 treated its limitation as clear and definite. Although paragraphs 5–6 observed that the two-digit discrepancy fell within Circular 64/38/2018-GST, paragraph 6 expressly declined to examine the evasion merits. The Department's inference from common ownership of both vehicles was therefore not adjudicated. The controlling ground for relief was the breached statutory timetable.

Pinpoint: Paragraphs 5–9, physical pp. 4–6 (judgment pp. 3–5).

03 Judicial decision and operative relief

The writ petition was allowed. Finding no basis to sustain the demand, the Court set aside the detention orders and directed immediate release of the vehicle with its goods. It did not remand the matter for fresh adjudication. The operative directions contain no quantified refund, interest, compensation or costs award.

Pinpoint: Paragraphs 9–10, physical pp. 6–7 (judgment pp. 5–6).

04 In favour of

Petitioner-carrier on the statutory limitation challenge, with final release relief; no determination exonerating it on the underlying evasion allegation.

The carrier obtained final relief against these detention proceedings. This limited statutory victory is neither a remand nor a finding that every vehicle-number mismatch is harmless. The Court's express reservation of the evasion merits must accompany reliance on its circular observations.

Pinpoint: Paragraphs 6–10, physical pp. 5–7 (judgment pp. 4–6).

05 AKHB REVIEW POINT

AKHB analysis: Preserve interception records, detention forms, notice-issue evidence, proof of service, adjournment requests and the adjudication order. Calculate the two deadlines separately; notice issuance and notice service perform different statutory functions. Verify the version applicable to the movement, since the express seven-day limits commenced centrally on 1 January 2022.

For a minor-error argument, test the actual documents against Circular 64/38/2018-GST. Its vehicle-number category concerns one or two digits/characters where an invoice or specified document and an e-way bill accompany the consignment. Paragraph 6 prescribes Rs. 500 each under CGST and the respective State GST Act, or Rs. 1,000 under IGST, per consignment through DRC-07. This judgment did not itself impose that penalty. Do not present the circular as automatic immunity from all discrepancies or evasion allegations.

Pinpoint: AKHB commentary based on paragraphs 2–9; Circular 64/38/2018-GST, paragraphs 2–6; CGST Act Section 129(3); Notification 39/2021-Central Tax.

Sources and limitations

Relevant provisions

CGST Act 2017 Section 129(3), as substituted by Finance Act 2021 (Act 13 of 2021), Section 117(iii).
Supplementary checks: CGST Act Sections 129(4) and 125; Circular 64/38/2018-GST dated 14 September 2018; Notification 39/2021-Central Tax dated 21 December 2021. These checks are not additional holdings.

Statutory note

Paragraphs 1 and 8 expressly identify the Central Goods and Services Tax Act and Act 13 of 2021, notwithstanding that the respondents are Bihar State tax authorities. No separate BGST amendment date, cross-empowerment ruling or allocation of tax heads is inferred. The Finance Act 2021, Section 117(iii),

substituted Section 129(3); Notification 39/2021-Central Tax brought Section 117 into force on 1 January 2022. The earlier subsection required notice and an order for tax and penalty but contained neither of these express seven-day limits. Both the 1 January 2022 CBIC compilation and the India Code text accessed on 13 October 2026 display the substituted deadlines. Section 129(4) preserves a hearing opportunity; this judgment's adjournment reasoning does not authorise denial of that safeguard. Circular 64/38/2018-GST was issued by the Central Board of Indirect Taxes and Customs under Section 168. Paragraph 5 requires an accompanying invoice or other specified document and e-way bill; clause (f) covers an error in one or two digits/characters of the vehicle number. Paragraph 6 prescribes Rs. 500 under Section 125 CGST plus Rs. 500 under the respective State GST Act, or Rs. 1,000 under IGST, in DRC-07 for every consignment. The circular's older description of tax-and-penalty release must be read with the later statutory amendments.

Treatment note

Checked 13 October 2026 through bounded party-name, case-number, date, Patna High Court and Supreme Court official-domain searches. No later appeal, review or stay order affecting CWJC 3499/2024 was established from those searches. This is not an exhaustive citator review or a finding that no appeal exists. A same-name result was checked against the complete official Kedia Enterprises judgment, CWJC 11021/2024 dated 25 September 2024: its paragraph 4 identifies Pawan Carrying Corporation v. Commissioner CGST & Central Excise, CWJC 7985/2024. That is a different proceeding and is not treated as later appellate history or direct treatment of this 29 February judgment. Actual compliance with the release direction remains unverified.

Scope of source review

All seven physical source pages fully read and individually visually inspected: editorial headnote at physical p. 1; complete judgment at physical pp. 2–7, corresponding to judgment pp. 1–6. Circular 64/38/2018-GST: all three pages read and individually inspected. Supplementary review: CBIC 2022 compilation physical pp. 157–158 (printed pp. 156–157), Notification 39/2021 p. 1, and India Code Section 129 text at physical/printed pp. 101–102 (web-extracted text only). The complete four-page Kedia judgment was read and individually inspected solely to resolve the same-name case reference. No entire statutory compilation was reviewed.

Source notes

The official eILR citation is a reporter citation, not a neutral citation. The signed judgment heading, running headers and bench signatures support 29 February 2024. The last-page uploading entry reads 05.02.2024, an internally inconsistent date preceding the decision; it is not adopted as the decision date. Paragraph 6 and the editorial headnote misname the circular issuer as the Central Board of Direct Taxes and Customs; paragraph 3 and the primary circular correctly identify the Central Board of Indirect Taxes and Customs. The headnote's suggestion that detention was unnecessary does not override paragraph 6's express reservation of the evasion merits. The judgment records notice dated 5 January and treats the order as outside the service-based limit, but does not separately specify a calendar date of service; none is invented. The original PDF remains byte-for-byte preserved. The fresh official PDF differs in modification-date metadata, file identifiers and internal PDF object/resource serialization; all seven page-text hashes and rendered PNG hashes match. Cryptographic signature validation was not performed.

Primary source

Source description: Complete official eILR report: one editorial-headnote page followed by the six-page judgment. Retained original preserved; fresh official download text and all seven rendered pages match.

Official source: [Open source document](#)

Source pages: 7

Judgment author: K. Vinod Chandran, Chief Justice

Outcome type: final high court merits

Additional source

Circular 64/38/2018-GST, 14 September 2018, CBIC

Official source: [Open source document](#)

Pinpoint: All three pages; paragraphs 2–5 at pp. 1–2, paragraph 5(f) and paragraph 6 at p. 3: documentary conditions, vehicle-number errors and specified per-consignment penalty.

CGST Act, CBIC compilation as at 1 January 2022

Official source: [Open source document](#)

Pinpoint: Physical pp. 157–158 (printed pp. 156–157): Section 129(3)–(4), historical wording and commencement footnotes. Historical compilation, not a complete current consolidation.

Notification 39/2021-Central Tax, 21 December 2021

Official source: [Open source document](#)

Pinpoint: One-page notification: 1 January 2022 commencement for Finance Act 2021 Sections 108, 109 and 113–122, including Section 117.

CGST Act, India Code text accessed 13 October 2026

Official source: [Open source document](#)

Pinpoint: Physical/printed pp. 101–102, especially p. 102: Section 129(3), hearing safeguard under Section 129(4), and Finance Act 2021 Section 117 amendment footnote. Relevant text checked through the official PDF's web extraction; local download timed out.

Kedia Enterprises, CWJC 11021/2024, 25 September 2024: same-name-case disambiguation

Official source: [Open source document](#)

Pinpoint: Complete four-page judgment; paragraph 4 at p. 2 identifies the distinct Pawan CWJC 7985/2024. Included to prevent conflating cases, not as appellate history of CWJC 3499/2024.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official judgment and identified primary sources. No human legal review is claimed.

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Source checked: 13 October 2026

Reserved date: Not stated; oral judgment