

M/s ASP Traders v. State of Uttar Pradesh & Ors.

Case number: Civil Appeal No. 9764 of 2025, arising out of SLP (C) No. 17995 of 2022

Citation: 2025 INSC 890 **Decision date:** 2025-07-24

Section 129: payment for release of detained goods does not dispense with a reasoned appealable order

Court: Supreme Court

Bench: J.B. Pardiwala and R. Mahadevan, JJ.

Decision stage: Final judgment directing adjudication of the disputed detention demand

01 Facts

ASP Traders, a Karnataka dealer in arecanut, sent a consignment to a Delhi purchaser in January 2022. After transshipment, seven of the original 255 bags were missing. Uttar Pradesh's mobile squad detained the vehicle on 17 January 2022, alleging a quantity discrepancy and issues concerning the consignor's address and the consignee's existence. A notice under section 129(3) followed on 21 January. The dealer lodged written objections but paid Rs. 7,20,440 through Form GST DRC-03 on 27 January to secure release of the goods for business reasons. The authorities released them in Form GST MOV-05 without a final section 129(3) adjudication. The dealer repeatedly sought a speaking order so that it could challenge the demand. The authorities claimed that the representative had orally withdrawn the objections and that payment concluded proceedings under section 129(5). The dealer disputed any withdrawal. The Allahabad High Court dismissed its writ petition on 18 July 2022, treating payment and the purported closure as sufficient. The issue before the Supreme Court was whether payment permitted the officer to omit a final reasoned order. The substantive allegations supporting detention were not themselves decided.

Pinpoint: Paragraphs 2-3.10 and 7-8; official PDF pages 1-4 and 9-10. Rival positions: paragraphs 4-5.5, pages 4-9.

02 Court Discussion

Reading section 129(3)-(5), rule 142 and the binding departmental circular together, the Court held that payment and physical release do not remove the obligation to make a formal, reasoned determination that the taxpayer can appeal. The circular requires a MOV-09 order and electronic summary in DRC-07 in addition to the MOV-05 release order. The latter merely recorded release after payment and did not record withdrawal of objections. The authorities produced no written material establishing an oral withdrawal; the written objections therefore had to be considered and answered. The Court accepted that this payment was driven by business necessity and could not be treated as voluntary merely because the portal described DRC-03 payments that way and did not permit a protest designation. It treated the section 129(5) conclusion of proceedings as insufficient to infer waiver of the statutory right to contest the levy. Its reasoning on waiver and acquiescence, supported by the decisions discussed in paragraph 16.2, stressed that payment alone did not surrender the right, particularly with objections on record and an obligation to adjudicate. A reasoned order is a substantive safeguard of natural justice and the foundation for the section 107 appeal; without it, the taxpayer's appeal becomes ineffective. Article 265 requires legal authority for collection as well as levy. Reliance on strict interpretation of tax exemptions in Dilip Kumar & Co. was misplaced because the dispute concerned procedural safeguards, not an exemption. Paragraph 19 states

that even voluntary payment would not absolve the officer of the obligation to issue the reasoned order in this case.

Pinpoint: Paragraphs 9-19; official PDF pages 10-30. Circular and forms: paragraph 10, pages 13-17; release-order evidence: paragraphs 13-13.1, pages 18-19; mandatory adjudication and objections: paragraphs 14-17, pages 19-27; natural justice and appeal: paragraphs 18-19, pages 27-30.

03 Decision

The Supreme Court set aside the High Court's order and directed Respondent No. 3 to pass a reasoned final order under section 129(3) in Form GST MOV-09 after providing the hearing required by section 129(4), and to upload its summary in Form GST DRC-07. This was to be done within one month after receipt of a copy of the Supreme Court judgment. The taxpayer could then pursue the legal remedies available against that order according to law. The appeal was allowed on those terms, without costs, and connected miscellaneous applications were closed. The Court did not direct repayment of Rs. 7,20,440, annul the alleged contraventions on their merits, or itself determine the correct tax or penalty.

Pinpoint: Paragraphs 20-22; official PDF page 30. Signed date and bench: page 31.

04 In Favour Of

ASP Traders on adjudication and appeal rights; substantive detention demand left for determination

In favour of ASP Traders on its entitlement to a hearing and a reasoned, appealable adjudication despite payment made to release the goods. The High Court's refusal to compel adjudication was reversed. This was procedural relief with further determination by the proper officer, not a final taxpayer victory on whether the detention or demand was substantively justified.

Pinpoint: Paragraphs 19-22; official PDF pages 29-30.

05 AKHB REVIEW POINT

AKHB REVIEW POINT: When paying to release goods while disputing a section 129 demand, preserve a dated written objection, proof that it reached the proper officer, the payment record and the release order. If the portal cannot record protest, communicate it separately and retain delivery evidence. Request the reasoned MOV-09 order and verify its DRC-07 summary rather than treating MOV-05 release as a merits adjudication. Check the communication date, appeal deadline and applicable pre-deposit requirements before challenging the eventual order; this judgment does not dispense with them or grant an automatic refund. The one-month direction is specific to this litigation. Apply the statutory version for the relevant detention: despite the January 2022 facts, paragraph 9.2 reproduces pre-amendment section 129 tax-and-penalty wording, and paragraph 9.3 reproduces older rule 142 language. The Court does not analyse that version issue. The central section 129 amendments commenced on 1 January 2022. Accordingly, use this judgment for its reasoned-order and appeal-right holding, while independently checking the applicable penalty framework, prescribed timelines, rules and any relevant State amendments. Do not use the reproduced older wording to calculate a current detention liability.

Pinpoint: AKHB analysis based on paragraphs 13-21; official PDF pages 18-30. Reproduced legislation: paragraphs 9.2-9.3, pages 10-12. Bounded statutory check: CBIC section 129 amendment history and Notification Nos. 39/2021-Central Tax and 40/2021-Central Tax (rule 2(iv), PDF page 2), linked below.

Sources and limitations

Relevant provisions

Central Goods and Services Tax Act, 2017: sections 107, 129(1), 129(3)-(5) and 168

Integrated Goods and Services Tax Act, 2017: section 20

Central Goods and Services Tax Rules, 2017: rule 142(3) and (5), as reproduced and discussed in the judgment

CBIC Circular No. 41/15/2018-GST dated 13 April 2018: paragraph 2(h), (j) and (v), including Forms GST MOV-05, MOV-09 and DRC-07

Constitution of India: article 265

Statutory-version qualification: Finance Act, 2021, section 117; Notification Nos. 39/2021-Central Tax dated 21 December 2021 and 40/2021-Central Tax dated 29 December 2021

Statutory note

Bounded statutory-version check: Finance Act, 2021 section 117 amended central section 129, including replacing the old tax-and-penalty formulation and introducing a notice within seven days of detention or seizure and an order within seven days after service of notice. CBIC's section 129 text and amendment history identify commencement on 1 January 2022, through Notification No. 39/2021-Central Tax. This predates the January 2022 detention described in the judgment, although the judgment reproduces older wording. Notification No. 40/2021-Central Tax, rule 2(iv), also changed rule 142(3) from a fourteen-day detention-based period to a seven-day notice-based period before issuance of the order, and changed rule 142(5), with effect from 1 January 2022. Its one-month adjudication direction is case-specific and should not be presented as the general statutory deadline. This check does not determine any challenge to the judgment, later compliance by the officer, State-law commencement, or all subsequent statutory/rule changes. Official sources: <https://taxinformation.cbic.gov.in/content-page/explore-act/1000406/1000001> and <https://gstcouncil.gov.in/sites/default/files/2024-05/notfctn-39-central-tax-english-2021.pdf> Further official sources: CBIC compilation as on 1 January 2022, printed pages 155-157 (PDF pages 156-158), <https://cbic-gst.gov.in/pdf/CGST-Act-2017-amended-01012022.pdf>; rule-amending notification, page 2, <https://gstcouncil.gov.in/sites/default/files/2024-05/notfctn-40-central-tax-english-2021.pdf>.

Treatment note

Primary judgment verified on 12 October 2026, with the limited central section 129 and rule 142 commencement/version checks described above. No comprehensive search for later judgments, review proceedings, compliance orders, overruling or further legislative changes has been completed; current precedential treatment is not certified. This is an AI-assisted source-based AKHB research note, not evidence of human legal review and not a substitute for professional advice on the reader's facts.

Scope of source review

Complete 31-page official judgment, paragraphs 1-22 and all subparagraphs and quoted materials, read in full. Case number, parties, signed bench and 24 July 2025 decision date verified against the original. Neutral citation 2025 INSC 890 is corroborated by the official Supreme Court eSCR entry but is not printed on this signed rendition. The later digital-signature processing date is not the decision date. Paragraph 14 prints "DRT 07"; rule 142(5), paragraphs 19-21 and the operative direction identify DRC-07, which this note uses. The factual narrative contains inconsistent weight descriptions and alternates between IGST and tax-and-

penalty descriptions of the payment; this note reports the undisputed bag discrepancy and payment amount without inventing a reconciliation.

Primary source

Source description: Supreme Court of India official signed judgment dated 2025-07-24

Official source: [Open source document](#)

AKHB source PDF: [Open source document](#)

Judges: J.B. Pardiwala; R. Mahadevan

Outcome kind: procedural

Disclosures and source rights

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