Jogeswar Nayak v. Principal Commissioner of Income Tax (Central), Visakhapatnam & Ors.

WP(C) No. 22104 of 2025

WP(C) No. 22104 of 2025 (Orissa HC, decided 13.11.2025) | 2025-11-13

Section 127 jurisdiction transfer and section 132B(1)(i) release of Rs. 12,00,000 seized cash: transfer from ACIT Central Circle Sambalpur to ITO Bargarh already granted by PCIT order dated 31.10.2025; disputed ownership claim over seized cash relegated to competent authority.

Income-tax Act, 1961: sections 127, 132B(1)(i) and 143(3) | Constitution of India: Articles 226 and 227

High Court of Orissa | 2-judge bench (Division Bench) | Harish Tandon, C.J. | Murahari Sri Raman, J.

Assessment years:

Section 127 transfer granted; section 132B cash-release claim not adjudicated in writ jurisdiction due to third-party ownership plea

Because the petitioner (an accountant) pleaded that the Rs. 12,00,000 seized by police on 02.04.2019 belonged to his employer's proprietress (Sabita Patel of M/s. Maa Nathaldai Fuels), the High Court declined to adjudicate the refund claim under Article 226 and granted liberty to approach the competent authority.

01 FACTS OF THE CASE

Jogeswar Nayak sought transfer of his case from Central Circle, Sambalpur to ITO, Bargarh and return of Rs.12,00,000 with interest. Counsel said police seized the cash on 02.04.2019 while he was carrying it for deposit as accountant of Maa Nathaldai Fuels; the Department impounded it and held it in a PD account. He claimed it belonged to proprietress Sabita Patel, and relied on a completed section 143(3) assessment with nil demand to seek release under section 132B(1)(i). These were his submissions, not findings establishing ownership.

Source: PDF p.1

02 DISCUSSION BY THE HON'BLE COURT

The Court examined the PCIT's 31.10.2025 transfer order and found the Sambalpur-to-Bargarh prayer already redressed. The cash-release prayer presented a different issue: whether the money belonged to the proprietress required evidence and factual adjudication. The Court declined to resolve that serious ownership dispute in writ jurisdiction.

Source: PDF p.2

03 JUDICIAL DECISION

The writ petition was disposed of because the transfer prayer had been redressed. On refund, the petitioner was given liberty, if advised, to approach the competent authority for factual adjudication. Pending interlocutory applications were also disposed of. No refund, interest or adjudication deadline was ordered.

Source: PDF p.3

04 OUTCOME / IN WHOSE FAVOUR

Transfer relief had already been obtained administratively; the cash claim remained undecided with liberty to approach the competent authority. Disposal did not establish either the petitioner's or the proprietress's entitlement to the seized money.

Source: PDF p.3

05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

Separate transfer of the case from title to the cash — The section 127 order solved where the tax case would be handled. It did not answer who owned the Rs.12 lakh. Treating the transfer as an instruction to refund would collapse two distinct prayers and bypass the ownership inquiry which the Court expressly retained. The transfer order and the cash claim therefore serve different purposes in any further application.

The evidentiary gap survives the asserted nil demand — Nayak's case linked a nil-demand assessment to release under section 132B(1)(i), while also asserting that the money belonged to Sabita Patel. The Court did not adopt nil demand as conclusive of entitlement. Evidence tracing the cash to the concern and explaining the accountant's possession would address the actual factual issue identified. The judgment does not prescribe a joint application or designate a particular officer as the competent authority.

Liberty preserves a claim without awarding it — The disposal permits the refund question to be pursued before the competent authority; it neither rejects ownership on its merits nor orders payment. Interest and elapsed retention were part of the relief sought, but no entitlement or payment timetable was declared. Use this order to explain why factual adjudication remains necessary, not as an executable cash-release direction.

Source: PDF p.1

SOURCE & VERIFICATION

High Court of Orissa official judgment PDF - AKHB Cloud Repository (20251113_ODHC010535612025.pdf)

4-page official High Court of Orissa judgment PDF (20251113_ODHC010535612025.pdf).

All 4 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All 4 physical pages of 20251113_ODHC010535612025.pdf read and verified page-by-page. Original bytes (178,311 bytes) match SHA-256 0f01cbf66a5375b5503fe011ae5771716ad05e2c9604e740e1b0fb5246042b1c.

STATUTORY SCOPE

Section 127 transfer had already been granted. Section 132B(1)(i) and a nil-demand section 143(3) assessment were invoked by the petitioner; entitlement to release was not decided. The order does not identify a section 132A requisition.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.