

**HIGH COURT OF TRIPURA**  
**\_A\_G\_A\_R\_T\_A\_L\_A\_**  
**WP(C) No.620 of 2021**

GWC Asphalt

..... Petitioner(s)

Versus

The State of Tripura and others

..... Respondent(s)

---

For Petitioner(s) : Mr. B.N. Majumder, Sr. Advocate,  
Mr. K. Roy, Advocate.

For Respondent(s) : Mr. K. De, Addl. G.A.

---

**HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI**  
**HON'BLE MR. JUSTICE S.G. CHATTOPADHYAY**

**\_O\_R\_D\_E\_R\_**

**07/09/2021**

*(Akil kureshi, CJ)*

Heard learned counsel for the parties for final disposal of the petition.

Petitioner is in the business of providing construction materials. The petitioner had sold 125 drums of Bitumen-vg-30 containing 22.125 metric tons of the said product valued at Rs.813294/- on which the petitioner had paid GST of Rs.146393/-. The consignment was to be transported from Guwahati and to be delivered to one Kishore Roy at Agartala. For such transportation of the goods the petitioner had also generated an e-way bill on 18.08.2021. When the transport vehicle along with the goods arrived at Churaibari check-post, they were

intercepted and detained on the ground that in the e-way bill the petitioner had deliberately misdeclared the vehicle as ODC which we are informed means Open Dimension Cargo and which categorization would apply to extremely slow moving vehicles. As a result, the e-way bill was valid for a period of one month from 18.08.2021 to 19.09.2021. According to the Inspector of Taxes, Churaibari Enforcement Wing, this was a deliberate attempt on part of the petitioner to avail longer period of validity of e-way bill. He, therefore, issued a show-cause notice why Central and State GSTs of Rs.73196.5/- each be not recovered with matching penalties. The petitioner filed a detailed reply on 29.08.2021 and opposed this demand and also requested for release of the vehicle and the goods. On 04.09.2021 the Superintendent of Taxes issued a communication asking the petitioner to deposit the taxes with penalties upon which the petitioner has filed this petition.

Appearing for the petitioner learned counsel Shri Majumder submitted that showing the vehicle as ODC was a mere error and there was no *mala fide* intention on part of the petitioner to avail of any longer period of validity of the e-way bill. The movement of the vehicle had started from Guwahati on 19.08.2021 and had already reached Churaibari check-post on 21.08.2021 when it was detained. Had the vehicle not been stopped, the delivery at Agartala would have taken place latest by

22.08.2021 which in any case is the normal validity period of e-way bills considering the distance between the point of origin and destination.

On the other hand, learned counsel Shri Karnajit De appearing for the department on advance copy submitted that there is every possibility of mischief and the entire issue needs to be examined and cannot be judged at this stage before this Court.

If the departmental authority wishes to inquire further into this lapse in generating the e-way bill by the petitioner, we can have no objection. However, his demand that the petitioner must pay the taxes with penalties even before the issue is adjudicated, is without authority of law. While, therefore allowing the competent authority to proceed further and pass appropriate order in connection with the show-cause notice issued by the petitioner, after considering the reply filed by the petitioner, the insistence on collecting the full taxes with penalties is not permissible. In the meantime, the goods and vehicle must be released on certain conditions. Considering the facts of the case, let the transport vehicle along with the goods be released upon the petitioner fulfilling the following conditions.

- (i) The petitioner shall deposit, in the manner as provided under Section 49 of the State GST Act, 50% of the disputed amount (which we round off to Rs.1,50,000/-) with the tax

department. This deposit shall be subject to final outcome of the adjudication proceedings.

(ii) For the remaining amount of 50% (rounded off to Rs.1,50,000/-), the petitioner shall furnish a bond before the said authority to pay up the sum in case ultimately found liable to do so.

Upon the petitioner fulfilling these conditions, the vehicle and the goods shall be released forthwith. The competent authority shall pass final order in accordance with law regarding the petitioner's further tax/penalty liability, if any. If no liability is established, the amount deposited under this order shall be returned to the petitioner.

Petition disposed of accordingly. Pending application(s), if any, also stands disposed of.

**(S.G. CHATTOPADHYAY), J**

**(AKIL KURESHI), CJ**