

## Peter Santhosh Rodrigues Vs State Tax Officer (Intelligence)

**Court:** High Court Of Kerala

**Date of Decision:** Jan. 24, 2025

**Acts Referred:** Central Goods and Services Tax Act, 2017 â€” Section 129, 130

**Hon'ble Judges:** Bechu Kurian Thomas, J

**Bench:** Single Bench

**Advocate:** G.Hariharan, Praveen.H., K.S.Smitha, B.R.Sindu, V.R.Sanjeev Kumar, Afna V.P., Remya Murali, Dr.Thushara James,

**Final Decision:** Disposed Of

### Judgement

Bechu Kurian Thomas, J.

1. Petitioner is a transport contractor, who is a registered owner of two Tanker Lorries bearing Registration Nos.KA-11C-2468 and KA-41B-6559.

The vehicle bearing Registration No.KA-11C-2468 was intercepted at Koyilandy at 2.00 a.m. on 31.12.2024 while vehicle bearing Registration No.

KA-41B-6559 was intercepted on 30.12.2024 at 4.35 p.m. at Payyannur. The vehicles were found transporting kerosine without any documents and

hence the vehicles were detained and proceedings under Section 129 of the CGST/ SGST Act, 2017 were initiated. In the meantime, since it was

suspected that there was evasion of tax, proceedings under Section 130 of the CGST/ SGST Act, 2017 were also initiated. Petitioner seeks provisional

release of the two vehicles detained as per Ext.P1 and Ext.P3.

2. A counter affidavit has been filed by the first respondent pointing out that there was a total absence of any documents when the vehicles were

intercepted. Neither any e-waybill nor any invoice as prescribed under the Goods and Services Tax Act, accompanied the goods while under

movement and hence the vehicles were detained and proceedings initiated. It is also pleaded that the goods were not accompanied by any valid e-

waybill corresponding to the tax invoice, which created doubts in the mind of the proper officer regarding the veracity of the transportation and hence

proceedings have been initiated under Section 130 of the CGST/ SGST Act, 2017. A notice under GST MOV-10 has also been issued.

3. I have heard Sri.G.Hariharan, the learned counsel for the petitioner as well as Smt.Dr.Thushara James, the learned Senior Government Pleader.

4. The industrial kerosine, alleged to have been transported in two tanker lorries were being allegedly transported without any supporting documents.

The absence of e-waybills corresponding to the invoices produced, created doubt in the minds of the proper officers and hence proceedings have been

initiated. The statute provides for an option to pay fine in lieu of confiscation, as demanded by the proper officer. If the said amount is not paid,

necessarily proceedings will have to continue.

5. During the course of hearing, it was informed that, already notices for confiscation were issued and therefore the proceedings will have to

culminate in an order of adjudication under Section 130 of the CGST/ SGST Act, 2017. However, having regard to the nature of goods under

detention, if the petitioner or the owner of the goods is not taking release of the goods after payment of the amount stipulated in the notice in MOV-10,

necessarily, the officer must conclude the proceedings in a time bound manner. Retaining the industrial kerosine for long would cause serious prejudice

and would not benefit any person. Therefore, I am of the view that the proceedings initiated under Section 130 ought to be completed at the earliest, at

any rate, within a period of ten days.

6. Since the learned counsel for the petitioner submitted that the notices issued under Section 130 of the CGST/ SGST Act, 2017 were received only

after the date prescribed for hearing, I am of the view that, in order to hasten the matter, this Court should be fixing a date on which the petitioner

shall appear and adjudication proceedings be completed.

Hence there will be a direction to respondents 1 and 2 to complete the proceedings initiated under Section 130 of the CGST/ SGST Act, 2017 as

expeditiously as possible. The petitioner shall appear before the first respondent on 29.01.2025 and before the 2nd respondent on 30.01.2025. On their

appearance, the respondents 1 and 2 shall hear the respective matters and conclude the proceedings as expeditiously as possible, at any rate, within

ten days from the said date of appearance.

The writ petition is disposed of as above.