

Court No. 551
(266306)

10.12.2025
(AD 22)
(S. Banerjee)

WPA 19155 of 2025

Puspa Furniture Pvt. Ltd. & Anr.
Vs.
Union of India & Ors.

Mr. Himangshu Kumar Ray
Mr. Subhasis Podder
Mr. Sushant Bagaria
Mr. Gaurav Chakraborty
Mr. Animitra Roy

...for the petitioners

Ms. Hasi Saha

...for the Union of India

Mr. N. Chatterjee
Mr. Tanoy Chakraborty
Mr. S. Sanyal

...for the State

Ms. Prithu Dudhuria

...for the respondent no. 9

Mr. Bhaskar Prosad Banerjee
Mr. Abhradip Maity

...for the Siliguri CGST authorities

Report in the form of an affidavit filed by the
respondent nos. 5 to 8, is taken on record.

This writ petition assails the entire search and
seizure proceeding conducted at the office/sale office-
cum-residential premises of the petitioners in terms
of Section 67 of the CGST Act, 2017.

Mr. Roy, learned advocate appearing for the
petitioners submits that the entire proceeding has
been conducted de hors the provisions of law. It has

been submitted that the INS-01 issued by the respondents does not disclose any reason to believe which could form the basis of the search and seizure proceeding.

It is further submitted that there was no independent witness present at the time of search and seizure operation. Mr. Roy contends that the respondent GST authorities have obtained the signature of their employees as witnesses who cannot be termed as 'independent witness' in terms of Section 67(10) of the 2017 Act.

It is further submitted that during the said operation, cash to the tune of Rs. 24 lacs was sealed in the petitioners' premises and was kept in the custody of the petitioners themselves thereby depriving the petitioners of their right to use the same.

It is further submitted by Mr. Roy that in the search and seizure operation conducted at the petitioners' factory premises, no signature of the Panchas have been obtained in the Panchnama and there is no signature of the witnesses on the order of seizure in form GST INS-02.

By an order dated September 16, 2025, the respondent GST authorities had been directed to file a

report in the form of an affidavit in view of the petitioners' insistence for immediate release of goods and cash to the tune of Rs. 24 lacs.

In terms of the said order a report in the form of an affidavit has been filed which reveals as follows:

"12. It is stated that the detention of cash of Rs. 24.00 Lakh was done considering it as unaccounted cash against clandestine supply of taxable goods and services without any bill or invoice, for the reason that the person in charge, present at the time, namely Sri Jagat Saha could neither explain about such receipts satisfactorily, nor did he provide any documentary evidence/transactional receipts at the time of search in support of it being related to any legal transaction.

13. The cash was seized as a part of the investigation on the ground of the petitioner not being able to explain the huge cash, which is unaccounted in his premises and on the reasonable belief as unaccounted cash against clandestine supply of taxable goods and services without any bill or invoice. The seized cash is kept under the custody of the petitioner in his premises.

14. As Income Tax Department is the proper authority to deal with unaccounted cash, a letter dated 30.07.2025 followed by a reminder dated 12.08.2025 were issued to the Income Tax Authorities, Siliguri to take

over the cash so detained for the purpose of proper investigation; reply of which was received on 19.08.2025 wherein the Income Tax Authority has intimated that the investigation in the case is under progress. One more letter was issued to Income Tax Authorities on 16.09.2025 requesting them to expedite the investigation in the matter. The said petitioner has also been intimated in this regard vide this office letter dated 31.07.2025. That with an intention to hand over the above stated cash to the Income Tax Authorities.”

Mr. Roy, learned advocate appearing for the petitioners submits that the GST authorities lack any power to seize any amount of cash. In support of such contention he relies on the following judgments:

- i) *Nand Kishore Gupta –Vs.- Additional Director General, Directorate General of GST Intelligence*, reported in (2025) 27 Centax 292 (Del.);
- ii) *B. Kusuma Poonacha –Vs.- Senior Intelligence Officer*, reported in (2024) 162 taxmann.com 424 (Karnataka);
- iii) *State Tax Officer (IB) –Vs.- Shabu George*, reported in (2023) 9 Centax 89 (S.C.);
- iv) *Bharatkumar Pravinkumar and Co. –Vs.- State of Gujrat*, reported in (2023) 156 taxmann.com 136 (Gujrat) and

v) *Commissioner of CGST –Vs.- Deepak Khandelwal*, reported in 2025 (8) TMI 1293 – SC Order.

As regards the requirements of recording of reasons to believe, Mr. Roy has relied on the following judgment:

i) *Commissioner of CGST –Vs.- R. J. trading Co.*, reported in (2024) 160 taxmann.com 532 (SC).

Mr. Banerjee, learned advocate appearing for the respondents, however, submits that the respondent GST authorities have rightly seized the cash and in any case the cash is still in the custody of the petitioners.

It is further submitted that since retention of cash to the tune of Rs. 24 lacs was found by the respondent GST authorities to be suspicious, the respondent GST authorities had already intimated the Income Tax authority about the same and as such their action in sealing the petitioners' cash cannot be faulted.

As regards the petitioners' contention that there is no reason to believe for the purpose of initiating the impugned proceeding, it is submitted that the respondents would be able to demonstrate that there are indeed good reasons to believe that the petitioners

have suppressed the transaction relating to supply of goods and as such the search and seizure proceedings have been validly initiated and conducted.

It is further submitted that in any case reasons to believe are not required to be communicated to the petitioner and the legislative mandate would be satisfied if reasons are there in the file and in the records of the GST authorities.

Mr. Banerjee further submits that the search and seizure operation is absolutely in accordance with law and the same should not be interfered with by the Court in a proceeding under Article 226 of the Constitution of India. In support of his contention he places reliance on the following decisions:

- i) *Principal Director of Income Tax (Investigation) and Ors. –Vs.- Laljibhai Kanjibhai Mandalia*, reported in (2022) 16 SCC 139;
- ii) *Narcotics Control Bureau –Vs.- Kashif*, reported in (2024) 11 SCC 372;
- iii) *Pooran Mal –Vs.- The Director of Inspection (Investigation), New Delhi & Ors.*, reported in (1974) 1 SCC 345 and
- iv) *Santosh Kumar Gupta –Vs.- Commissioner, Delhi Goods & Services Tax*, reported in (2024) 158 taxmann.com 226 (Delhi)

We are at the interim stage. Since Mr. Banerjee submits that the respondents would be able to satisfy this court that good reasons exist to believe that the petitioners have indulged in activities that warrant initiation of search and seizure proceeding in accordance with Section 67 of the 2017 Act, this court is of the view that an opportunity of filing affidavit-in-opposition must be afforded to the respondents. At the same time this Court is also of the view that if it can be demonstrated that reasons to believe which forms the very basis of initiation of these proceedings are absent, then in that case the entire action may be held to be without jurisdiction and this Court would have authority to interfere even under Article 226 of the Constitution of India.

At the present moment and for the purpose of interim order it is, therefore, required to be decided as to whether the respondent GST authorities have power to seize cash.

Section 67(2) of the 2017 Act reads as follows:

“Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any

proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things: Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer: Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.”

A meaningful reading thereof would lead to the conclusion that the GST authorities can seize goods or documents or books or things if they have reasons to believe that such goods or documents or books or things shall be useful or relevant to any proceeding under this Act and have been secreted in any place. Section 2(52) of the said Act of 2017 defines goods as follows:

“ ‘goods’ means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply”

A perusal of the said definition clearly reveals that money stands excluded from the purview of goods.

The Division Bench of the Hon'ble Delhi High Court in the case of *Commissioner of CGST –Vs.- Deepak Khandelwal (supra)* cited by the petitioners, has dealt with a similar situation involving seizure of cash by GST authorities in the following manner:

“34. The word 'goods' as defined under Sub-section (52) of Section 2 of the Act is in wide terms, but the said term as used in Section 67 of the Act, is qualified with the condition of being liable for confiscation. Thus, only those goods, which are subject matter of or are suspected to be subject matter of evasion of tax. During the course of search under Sub-section (2) of Section 67 of the Act, the officer conducting the search may find various types of movable assets. Illustratively, in an office premises, one may find furniture, computer, communication instruments, air conditioners etc. Those assets although falling under the definition of 'goods' cannot be seized, if the proper officer has no reasons to believe that those goods are liable to be confiscated.

35. Sub-section (6) of Section 67 of the Act provides for provisional release of the goods so seized on payment of applicable tax, interest and penalty. This also indicates that the goods, which may be seized under Sub-section (2) of Section 67 are goods that are subject matter of evasion of tax or are supplies in respect of which the proper officer has reason to believe, taxes would not be paid.

36. Sub-section (7) of Section 67 of the Act mandates that the goods seized under Sub-Section (2) would be returned to the person from whose possession the goods were seized, if no notice in respect of those goods is issued within a period of six months. It is apparent that a notice in respect of such goods can be issued only where taxes, interest or penalty in respect of the said goods have not been paid or there are reasons to believe so.

37. If the goods are of the nature specified in Sub-section (8) of Section 67 of the Act, that is, are perishable or hazardous; or are depreciable with the passage of time; are subject to constraints of storage space and are so specified by the Government, the same may be disposed of, after their seizure.

38. The second category of items - that is, items other than goods, which the proper officer believes are liable for confiscation - which can be seized are 'documents or books or things'. Sub-section (2) of Section 67 of the Act makes it amply clear that such items - that is, documents or books or things - may be seized if the proper officer is of the opinion that it shall be useful or relevant to any proceedings under the Act. The words 'useful for or relevant to any proceedings under the Act' control the proper officer's power to seize such items.

39. Documents and books are also covered under the wide definition of 'goods' under Sub-section (52) of Section 2 of the Act but the

same are not goods that are liable for confiscation. Seizure of such documents or books is not contemplated for the reason that they are subject matter of supplies in respect of which tax has been evaded;

seizure of books and documents is contemplated only for the purpose that they may contain information, which may be useful or relevant for any proceeding under the Act. Hence, the purpose of providing for seizure of such items is to secure material information, which may be useful or relevant for the proceedings under the Act.

40. It is clear from the schematic reading of Section 67 as well as other provisions of the Act that the purpose of Section 67 of the Act is not recovery of tax; it is not a machinery provision for enforcing a liability. The purpose of Section 67 of the Act is to empower authorities to unearth tax evasion and ensure that taxable supplies are brought to tax. In respect of goods and supplies, which are subject matter of evasion, the proper officer has the power to seize the goods to ensure that taxes are paid. Once the department is secured in this regard - either by discharge of such liability or by such security or bond as the concerned authority deems fit - the goods are required to be released in terms of Sub-section (6) of Section 67 of the Act.

41. The second limb of Section 67(2) of the Act permits seizure of documents or books or things so as to aid in the proceedings that

may be instituted under the Act. The documents or books or things cannot be confiscated and have to be returned. This is amply clear from the plain language of the second proviso to Sub-section (2) of Section 67 of the Act. In terms of the second proviso to Sub-section (2) of Section 67, the documents or books or things seized are required to be retained only for so long as it may be necessary "for their examination and for any inquiry or proceedings under the Act". Once the said purpose is served, the books or documents or things seized under Sub-section (2) cannot be restrained and are required to be released.

42. The second proviso, although couched as a proviso, is an integral part of Sub-section (2) of Section 67 of the Act. The same clearly reflects that the legislative intent of empowering seizure of documents or books or things is for enabling their use in aid of the proceedings under the Act. Thus, seizure of such documents or books or things is conditional upon the proper officer's opinion. That the same are "useful for or relevant to" such proceedings.

43. Sub-section (3) of Section 67 of the Act, consistent with the legislative intent of permitting seizure of books or documents or things, provides that if the documents or books or things seized under Sub-Section (2) are not relied upon for issue of a notice under the Act or Rules made thereunder, the same shall be returned within a period of thirty days.

Although, there is no ambiguity in the language of Sub-section (2) of Section 67 of the Act that seizure of books or documents or things is permissible only if the same are considered useful for or relevant to the proceedings under the Act; Sub-section (3) of Section 67 makes it amply clear that the purpose of seizure of books or documents or things is only for the purpose of reliance in the proceedings under the Act. It, thus, posits that if the documents or books or things are not relied upon in any notice that is issued, the same are liable to be returned.

44. It follows from the contextual interpretation of Sub-section (2) and Sub-section (3) of Section 67 that seizure of books or documents or things are only for the purpose of relying on such material in proceedings under the Act.

45. It is also relevant to refer to Sub-section (11) of Section 67 of the Act. The said Sub-section empowers the proper officer to seize, for reasons to be recorded in writing, the accounts, registers or documents, which are produced before him and to retain the same so long as it is necessary "in connection with any proceedings under this Act or the rules made thereunder for prosecution".

46. It is clear from the Scheme of Section 67 of the Act that the word 'things' is required to be read, ejusdem generis, with the preceding words 'documents' and 'books'. It is apparent that the legislative intent of using a wide term such as 'things' is to include all material that

may be informative or contain information, which may be useful for or relevant to any proceedings under the Act. Although, documents and books are used to store information; they are not the only mode for storing information. There are several other devices that are used to store information or records such as pen-drives, personal computers, hard disks, mobiles, communication devices etc. The word 'things' would cover all such devices and material that may be useful or relevant for proceedings under the Act. The word 'things' must take colour from the preceding words, 'documents' and 'books'. It denotes items that contain information or records, which the proper officer has reason to believe is useful for or relevant to the proceedings under the Act. The context in which the word 'things' is used makes it amply clear that, notwithstanding, the wide definition of the term 'things', the same is required to be read ejusdem generis with the preceding words. It is apparent that the legislative intent in using a word of wide import is to include all possible articles that would provide relevant information, records, and material which may be useful for or relevant to proceedings under the Act.

47. We are unable to accept that the word 'things' must be read expansively to include any and every thing notwithstanding that the same may not yield and / or provide any material useful or relevant to any proceedings under the Act as contended on behalf of the

Revenue. It is necessary to bear in mind that power of search and seizure is a drastic power; it is invasive of the rights of a taxpayer and his private space. Conferring of unguided or unbridled power of this nature would fall foul of the constitutional guarantees. It necessarily follows that such power must be read as circumscribed by the guidelines that qualify the exercise of such power, and the intended purpose for which it has been granted. As stated above, it is contextually clear that exercise of such power is restricted only in cases where in the opinion of the proper officer, seizure is useful for or relevant to any proceedings under the Act. The second proviso of Sub-section (2) and Sub-section (3) of Section 67 of the Act makes it amply clear that the purpose of seizure is for the purpose of relying on the same in proceedings under the Act.

56. There may be cases where the Revenue finds that a particular currency note or any particular asset has evidentiary value to establish the Revenue's case. Illustratively, a delinquent dealer supplies goods without invoices only on presentation of a currency note that bears a particular number. The presentation of the currency note is used as a means of authenticating the identity of the purchaser. The number of the particular currency note is recorded in diary maintained by the purchaser. The Revenue Officer ascertains this modus operandi of evasion of taxes. The currency note, correlated with the

diary, would be relevant in establishing evasion of tax in respect of certain goods. Undoubtedly, in such cases, the currency note is material that yields information as to the modus adopted for evading tax; the proper officer may seize the currency note for its evidentiary value and relevance in establishing evasion of tax in proceedings under the Act. The same may be relied upon in the proceedings that may ensue. The particular currency note in such a case would yield certain information when read in conjunction with the diary. It is material to note that such currency note can be retained for so long as may be necessary for its "examination and for any enquiry or proceedings under the Act".

Cash or other assets, which are not required in species in aid of any proceedings, but represent unaccounted wealth, cannot be seized under Section 67 of the Act. This Court had pointedly asked Mr. Harpreet Singh whether there was any material showing information that the currency or the silver bars that were seized could be traced in species to any transaction which the Revenue required to establish in any proceedings. However, the answer to the same was in the negative. It is, thus, clear that the silver bars and the cash were seized only on the ground that it was 'unaccounted wealth' and not as any material which was to be relied upon in any proceedings under the Act."

This Court respectfully agrees with the views of the Hon'ble Division Bench of the Hon'ble Delhi High Court in the case of *Commissioner of CGST –Vs.- Deepak Khandelwal (supra)*.

In the report in the form of an affidavit that has been filed by the department it has not been stated with any degree of conviction that the currency notes that have been seized shall be useful or relevant to any proceeding to be undertaken by the GST Authorities against the petitioner under the said Act of 2017 or that the same could be correlated or traced to any transaction by the petitioner which the respondent GST authorities are required to establish.

In such view of the matter, this court finds that the action of the respondent GST authorities in seizing cash and sealing the same in the custody of the petitioners is beyond the power domain of the GST authorities in the facts of the present case.

Accordingly, the GST authorities are hereby directed to forthwith de-seal the said amount of Rs. 24 lacs so as to enable the petitioners to use the same in accordance with law.

It is, however, clarified that the order is being passed only in view of the peculiar facts of this case where GST authorities have not been able to

demonstrate that the seized cash shall be useful or relevant to any proceeding to be undertaken by the GST Authorities against the petitioner under the said Act of 2017 or is relatable to any transaction that they require to establish vis a vis the petitioner.

It is further clarified that this direction of de-sealing would by itself not be treated as a stamp of validity on the petitioners' custody/possession of the said amount and the other wings of the revenue authorities – whether GST or Income Tax or any other statutory authority would be free to take such action as may be permitted or permissible in law if the petitioners are found to be in possession of the said amount *de hors* law. This order shall not be treated as a passport by the petitioner to bypass any action that can be taken against the petitioner if retention or possession of the said cash by the petitioners is otherwise found to be illegal.

As regards the other issue which is involved pertaining to the validity of the search and seizure proceeding as raised by the petitioners in the writ petition, the respondent GST authorities shall file their affidavit-in-opposition within four weeks from date. The petitioners shall be at liberty to file affidavit-in-reply thereto within two weeks thereafter.

Since this Court has entertained the writ petition in view of the fact that a question as regards the validity of the search and seizure proceeding has been raised by the petitioners by asserting that no reason to believe exists, therefore while the respondent GST authorities shall be free to proceed with the investigation and issue show-cause notices and shall also be entitled to conclude the said proceedings by passing a final order in accordance with law upon giving an opportunity of hearing and of making representation against the show-cause notices to the petitioners in accordance with law, yet the respondents shall not communicate such order to the petitioners or upload the same on the GST portal without the leave of the Court.

The petitioners shall cooperate in the investigation and the adjudication proceeding. Needles to mention that the proceeding shall be conducted in accordance with the guidelines of the Central Board of Indirect Taxes.

List this matter for hearing immediately after expiry of the time fixed for exchange of affidavits.

(Om Narayan Rai, J.)