

**GIB/Cul/Gati Kintetsu/08-06-2018/HC-127**

**High Court Category :** Search & Seizure

**State :** Culcutta

**Order No.:** GIB/Cul/Gati Kintetsu/08-06-2018/HC-127

**Name of Entry :**

Gati-Kintetsu Express (P) Ltd

**Date :** 08-06-2018

**Breif Issue :**

**Facts & Issue of The Case:**

The petitioner Gati-Kintetsu Express (P) Ltd challenged an order of seizure passed under Section 129(1) of the Central Goods and Services Tax Act and the order is appealable under Section 107 of the Act of 2017

In support of such contention petitioner relies upon a judgment and order No. [GIB/Al/RK Overseas/01-02-2018/HC-126](#) by the Allahabad High court.

**Decision of Advance Ruling Authority :**

**Decision**

Section 107 of the Act allows any person aggrieved by any decision or order passed under the Act of 2017 or the State Goods and Services Tax Act to file an appeal before the appellate authority as may be prescribed. It appears that the State has prescribed the appellate authority who is the senior Joint Commissioner (Appeals) as the appellate authority – Section 121 is an exception to Section 107 of the Act. While Section 107 of the Act makes every decision or order passed under the Act of 2017 to be appealable, Section 121 makes an exception thereto and states that, few which are recognized in Sub-section (a) to (d) would not be appealable.

Sec121 as per the CGST Act states Non-appelable decisions and orders as follows:

(a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or

(b) an order pertaining to the seizure or retention of books of account, register and other documents; or

(c) an order sanctioning prosecution under this Act; or

(d) an order passed under section 80.

The petitioner has a statutory alternative remedy available. It would be appropriate to permit the petitioner to prefer an appeal from the impugned order before the designated appellate authority, either electronically or otherwise, in terms of Rule 109 of the West Bengal Goods and Services Tax Act, 2017.

Petition disposed off.