

HC: Excess stock found — Section 73/74 applies, not Section 130.

CA Prakash Chandra Jain

P.O. Brajrajnagar
Odisha- 768216
Cell: 94375-41690 / 70087-12242
Email: prakashchjain@yahoo.co.in



REFER THE DECISION OF THE HON'BLE ALLAHABAD HIGH COURT IN THE CASE OF

Maa Amila Coal Depot vs. State of Uttar Pradesh Citation: (2025) 31 Centax 226 (All.)

Facts of the Case:

During inspection, excess stock was found at the premises of Maa Amila Coal Depot.

The GST Department initiated proceedings under Section 130 of the CGST Act, treating the stock as liable for confiscation, implying intent to evade tax.

The assessee challenged this action, arguing that mere presence of excess stock does not imply tax evasion warranting confiscation.

Hon'ble High Court Judgement:

The Allahabad High Court held that:

Section 130 (which deals with confiscation of goods and conveyance and levy of penalty) cannot be invoked solely on the basis of excess stock being found.

The proper course of action in such cases is to initiate proceedings under Section 73 or 74:

Section 73 — deals with demand of tax not involving fraud or willful misstatement.

Section 74 — involves cases with fraud, suppression, or willful misstatement.

The Court concluded that confiscation under Section 130 is unwarranted unless supported by clear evidence of intent to evade tax.