GSTAT

Court No. Court I

APL/94/LCK/2026

FERROUS INFRA SOLUTIONS .....**Appellant**

Versus

COMMISSIONER SGST UTTAR PRADESH, COMMISSIONER SGST UTTAR PRADESH, SGST LUCKNOW & ORS. .....**Respondent**

Counsel for Appellant
MR. VISHAL SRIVASTAVA, ADVOCATE

Counsel for Respondent
MR. ASHUTOSH MISHRA,
ASSISTANT COMMISSIONER, SGST

Hon'ble Santosh Kumar Srivastava, Member(Judicial)
Hon'ble Arvind Kumar, Member (Technical)

ORDER

1.0 BRIEF FACTS

1.1 The present appeal has been filed by M/s Ferrous Infra Solutions against Order-in-Appeal No. 108/2023 dated 28.08.2023, whereby the appeal filed by the appellant against the proceedings initiated under Section 129 of the UPGST Act, 2017, was rejected and the penalty of Rs. 4,09,854/-, comprising Rs. 2,04,927/- under CGST and Rs. 2,04,927/- under SGST, was upheld.

1.2 The dispute relates to the transportation of TMT bars found being carried in vehicle No. UP 44 BT 5284, whereas the e-way bill and other documents available at the time of interception reflected vehicle No. UP 82 T 2315. Part-B of the e-way bill had not been updated.

2.0 QUESTION OF LAW INVOLVED

2.1 No E way bill was available for the transaction in question; since a question of law is involved, therefore, this matter is fit for hearing before the Division Bench.

3.0 GROUNDS OF APPEAL

3.1 The appellant has submitted that M/s Ambrosial India placed a purchase order dated 14.08.2023 for 60 MT of TMT bars of ESL brand and that the order was executed through two separate and independent transactions.

3.2 According to the appellant, the first transaction was completed on 17.08.2023 against a valid tax invoice

and e-way bill, and the goods were duly delivered to the purchaser.

3.3 The appellant has further submitted that a second and independent transaction relating to 21.28 MT of 8 mm TMT bars was dispatched on 23.08.2023 under Invoice No. 61 and E-way Bill No. 431363370961 through vehicle No. UP 82 T 2315. According to the appellant, the goods reached the purchaser's site on the same day.

3.4 It is the further submitted that, after receipt of the goods, the purchaser intended to shift the goods to the premises of another group company. The vehicle in which the goods were initially transported allegedly broke down, and the goods were thereafter transferred to vehicle No. UP 44 BT 5284.

3.5 The appellant has contended that a fresh e-way bill was subsequently generated by the purchaser in connection with the further sale of the goods to M/s Eiffel Infra Developers Pvt. Ltd.; however, the old vehicle number was inadvertently mentioned therein. Vehicle No. UP 44 BT 5284 was intercepted without an e-way bill by the Mobile Squad, and proceedings under Section 129 of the GST Act, 2017, were initiated.

4.0 SUBMISSIONS OF THE APPELLANT

4.1 It was further submitted that the discrepancy in the vehicle number and the difference in the net weight of the goods arose only because the original vehicle allegedly broke down and was replaced by another vehicle. According to the appellant, the goods remained the same and there was no discrepancy in the quantity of goods.

4.2 It was also submitted that the alleged discrepancy related to the subsequent movement of the goods after the goods had already been delivered to and received by the purchaser. Therefore, the appellant had no control over the subsequent movement or the e-way bill generated for such subsequent movement.

4.3 The appellant further contended that the authorities had wrongly relied upon the gross vehicle weight and had failed to appreciate that the vehicle had subsequently been changed. It was also contended that two independent transactions had wrongly been clubbed together.

4.4 Further, the appellant submitted that there was no allegation of a fake invoice, undervaluation, suppression of turnover, or actual loss of revenue and, therefore, proceedings under Section 129 were not sustainable and prayed to set aside the impugned order.

5.0 SUBMISSIONS OF THE RESPONDENT

5.1 It was submitted that, at the time of interception, the goods were being transported in vehicle No. UP 44 BT 5284, whereas the vehicle number reflected in the relevant e-way bill was UP 82 T 2315.

5.2 It was further submitted that the appellant's explanation regarding the breakdown of the original vehicle was not supported by any documentary evidence produced before the authorities at the time of interception.

5.3 The learned Authorised Representative, therefore, submitted that the statutory requirements relating to the movement of goods under the e-way bill mechanism had not been complied with and that the appeal deserved to be rejected.

5.4 The learned Authorised Representative reiterated that the order passed by the adjudicating officer, as well as the order passed by the first appellate authority, were in accordance with law and that the present appeal deserved to be dismissed.

6.0 FINDINGS

6.1 In the present case, we observe that Invoice No. 61 dated 23.08.2023, relating to TMT bars, issued by the consignor firm, M/s Ferrous Infra Solutions, GSTIN-09AJAPM9305K1ZZ, to the consignee firm, M/s Ambrosial India, GSTIN-09BBXPM6906L1ZZ, was accompanied by E-way Bill No. 43136337096 dated 23.08.2023, in which vehicle No. UP 82 T 2315 was mentioned, whereas the goods were found being transported in vehicle No. UP 44 BT 5284.

6.2 Therefore, no valid e-way bill corresponding to the actual vehicle transporting the goods covered by Invoice No. 61 dated 23.08.2023 had been generated, although the total value of the goods was more than Rs. 50,000/-.

6.3 As regards the weight of the goods in question, a weighment slip was produced by the appellant at the time of interception, wherein the gross weight, including vehicle No. UP 82 T 2315, was declared as 33,645 kg, and the net weight of the goods was declared as 21,280 kg. On the other hand, the gross weight of vehicle No. UP 44 BT 5284, along with the goods, as recorded at Jagdiyapur, District Sultanpur Road, Lucknow, under RST No. 468 dated 24.08.2023, was found to be 35,290 kg. As per the Registration Certificate (RC) of the vehicle, after deducting the unladen weight of 15,070 kg, the weight of the goods comes to 20,220 kg. This was different from the quantity of 21.28 tones declared in the invoice and was considered contrary to the provisions of Section 31 of the UPGST Act and the rules prescribed under Rule 138, read with Section 129(1).

6.4 Accordingly, on account of the aforesaid discrepancies, penality of Rs. 4,09,854/- was imposed, which was deposited, following which the goods were released.

6.5 The appellant has contended that the difference in the weight of the goods was attributable to the change of vehicle. However, both vehicles were of different sizes and unladen weights. Therefore, the weight of the goods had to be determined independently with reference to the vehicle in which the goods were actually found.

6.6 The principal submission of the appellant is that the first transaction had already been completed and that the subsequent movement was undertaken by the purchaser.

6.7 We find substance in the proposition that a completed supply and a subsequent movement of the goods may constitute separate commercial events. However, this proposition does not assist the appellant in the present proceedings because, in the present case, the invoice and other documents relating to the appellant's

Case Citation: (2026) taxcode.in 124 GSTAT

transaction were found without any updated or new e-way bill corresponding to the actual vehicle carrying the goods.

6.8 It is observed that the e-way bill produced by the appellant in response to the notice was also incorrectly filled in Part-B, wherein the vehicle details of the primary vehicle used for delivery of the goods in the first transaction were entered. The appellant sought to explain the discrepancy on the ground that the vehicle had broken down and that the goods were subsequently transferred to another vehicle.

6.9 We observe that the appellant has not produced satisfactory contemporaneous evidence establishing that vehicle No. UP 82 T 2315 actually broke down at the relevant time and that, as a consequence thereof, the goods were transferred to vehicle No. UP 44 BT 5284.

Therefore, the explanation regarding the breakdown has remained substantially a claim made subsequently during the appellate proceedings.

6.10 The appellant has also relied upon the fact that the purchaser subsequently generated a fresh e-way bill in connection with the further sale/movement of the goods. This submission also does not satisfactorily explain the discrepancy, as the said e-way bill was not available at the time of interception.

The e-way bill presented by the appellant before the proper officer was also incorrectly filled in Part-B of the e-way bill.

6.11 The appellant has emphasized that the physical quantity of goods was not found to be in excess and that there was no allegation of a fake invoice, undervaluation, or actual loss of revenue. However, at the time of interception, a difference was noticed between the weight mentioned in the documents and the weight determined from the gross weight of the vehicle and its unladen weight.

6.12 We have considered the judicial precedents and the decision of the Hon'ble Allahabad High Court in *case of M/s Lalitpur Power Generation Company Ltd. v. State of U.P., Writ Tax No. 595 of 2023, decided on 15.04.2025.*

The Hon'ble High Court has reiterated the statutory significance of a complete and valid e-way bill for the movement of goods and considered the consequences where the goods were transported in a vehicle different from the vehicle declared in the e-way bill.

6.13 Further, the appellant has failed to establish by reliable supportive evidence, that the original vehicle had broken down and that the change to vehicle No. UP 44 BT 5284 was an unavoidable event which resulted in the vehicle particulars not being updated in the e-way bill.

6.14 We have also considered the submission that the discrepancy in the vehicle number was only a minor or technical lapse. In our considered view, the facts of the present case do not support such characterization.

6.15 Once the first movement had concluded, any subsequent movement of the goods was required to be supported by a separate and valid documentary trail. Further, where the vehicle was changed, the vehicle particulars in the e-way bill were required to correspond with the vehicle actually carrying the goods. In the

www.taxcode.in

Case Citation: (2026) taxcode.in 124 GSTAT

present case, the statutory documentary trail did not correspond with the actual movement of the goods at the time of interception. In the facts and circumstances of the case, and in the absence of satisfactory evidence explaining the change of vehicle, the discrepancy gives rise to a reasonable inference of an intention to evade tax.

6.16 The appellant submitted that the appellant should not be held liable for the present transaction in question, as the goods covered under the said transaction were dispatched by M/s Ambrosial India and not by the appellant.

6.17 In view of the facts stated above, we find that the submission made by the appellant are not acceptable. At the time of interception, the invoice available with the driver was Invoice No. 61, which had been issued by the appellant firm and not by M/s Ambrosial India.

6.18 We find that the appellant has not produced any contemporaneous document issued by M/s Ambrosial India to establish that the goods in question were actually transported by M/s Ambrosial India not by the appellant. Mere generation of an e-way bill by M/s Ambrosial India mentioning the same goods is not sufficient to establish the appellant's contention that the goods in transit were not related to or supplied by the appellant.

Therefore, the order issued under Section 129 of the UPGST Act, by the proper officer and the first appellate authority are hereby confirmed.

7.0 ORDER

In view of the foregoing discussion and findings, we are of the considered opinion that the appellant has failed to establish any legal or factual ground warranting interference with the impugned Order-in-Appeal.

The impugned Order-in-Appeal is hereby Upheld.

Accordingly, the appeal filed by M/s Ferrous Infra Solutions is hereby Rejected.

(Santosh Kumar Srivastava)

(Arvind Kumar)

Dated: 09.09.2026

www.taxcode.in