GOODS AND SERVICES TAX APPELLATE TRIBUNAL
ERNAKULAM BENCH
Division Bench :: Court No. I

APPEAL NO: APL/34/ERN/2026

M/s TIGER STEELS, PALAKKAD .....**Appellant**

Versus

THE COMMISSIONER OF STATE TAX, STATE GST DEPARTMENT, KERALAM STATE, THIRUVANANTHAPURM .....**Respondent**

Counsel for Appellant

Shri P.S. Soman Pulladan, Advocate

Counsel for Respondent

Shri. Anil Gopinath, Authorised Representative

CORAM:
Hon'ble Shri Subramanya Rayaprol, Vice-President
Hon'ble Shri Ramamoorthi Sriram, Member (Technical)

……

FINAL ORDER NO: 08/EKM/KERALAM/2026

Date of Hearing: 17-8-2026
Date of Order: 16-09-2026

Order per: Shri Ramamoorthi Sriram, Member (Technical)

1.0 The present Appeal (APL/ERN/34/2026) has been preferred by M/s Tiger Steels Palakkad ('Appellant') against Order-in-Appeal No. GSTA-144/2020 dated 29/6/2022 passed by the Joint Commissioner (Appeals), SGST Department (Keralam), Palakkad

2.0 Brief Facts of the Case:

www.taxcode.in

2.1 The Appellant, a registered person GSTIN-32AAJFT9657R1Z5, is a dealer in iron and steel. The Appellant had sold 30.940 Tons of sponge iron to M/s M. A. Steels Pvt. Ltd., Kanjikode, Palakkad.

2.2 Tax Officer attached to Squad No. II, SGST Department, Palakkad intercepted the vehicle and issued order No VC.II/13/19-20 dated 28-06-2019 under Section 129 of the State Goods & Service Tax Act and Central Goods & Service Tax Act (SGST & CGST Act) demanding Rs. 2, 26,108-00 towards SGST, CGST and penalty for the release of the goods. The only reason for issuing the order is that the validity of the e-way bill which accompanied the consignment had expired on 25-06-2019.The Appellant remitted the amount demanded in the order by way of Bank Guarantee and got the vehicle and goods released

2.3 The State Tax Officer after the release of the goods, has conducted adjudication as provided under Section 129 (1) of the SGST Act. No order was communicated to the Appellant. The State Tax Officer initiated steps to invoke the Bank Guarantee by issuing letter to the Bank directing them to issue Demand Draft for the amount covered in the bank guarantee.

2.4 Thereupon the Appellant approached the Hon'ble High Court of Kerala by filing W.P. (C) 21211/19. The Hon'ble High Court as per judgment dated 02- 08-2019 was pleased to direct the State Tax Officer to issue copy of the adjudication order to the Appellant and also directed the State Tax Officer not to invoke the Bank Guarantee within 4 weeks. In compliance to the Judgment of the Hon'ble High Court the adjudication order was communicated to the Appellant on 06-08-2019.

2.5 Statutory appeal filed before the Joint Commissioner (Appeals). SGST Department, Palakkad against the OIO was dismissed by the first appellate authority as per order GSTA No.144/2020 dated 25-11-2022.

2.6 The appellant has filed the present appeal against the order of the Appellate Authority.

3. Discussion and findings

Even before we get into the merits of the issue, what strikes our eye is the chronology of events as narrated below:

a. In the instant case, the goods were intercepted on 28/6/2019 and an order of detention VC No II/13/19-20 in form GST MOV-06 was issued on 28/6/2019

b. Notice No II/13/19-20 under section 129(3) was issued in form GST MOV-07 was issued on 28/6/2019

c. Order No. VC/II/13/2018-19 under section 129(3) of the CGST/SGST Act 2017,was passed on 26/7/2019

4. We find that section 129(3) of the KGST / CGST Act reads as follows:

> ***129(3)*** *The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).]*

5. We find that in terms of the above, it is mandatory on the part of the officer detaining or seizing the goods to pass an order for payment of penalty within seven days of the date of service of the notice. In the instant case, we find that while the

www.taxcode.in

notice was issued on 28/6/2019, the order under section 129(3) for payment of penalty was issued only on 26/7/2019, 28 days after the issue of notice.

6. We find that in view of the blatant violation of the statutory time limit, order No. VC/II/13/2018-19 dated 26/7/2019 (which has been upheld by the appellate authority), is void ab initio and is a nullity in the eyes of the law.

7. We find support for the above decision in the recent decision of the Thiruvananthapuram bench of the GSTAT in the case of Siddhivinayak Automobiles vs Commissioner of Kerala State GST (Final order no 2/TVP/Kerala/2026 dated 14/8/2026) wherein it was held as follows:

From the plain reading of Sub-section (3) of Section 129 of the Act of 2017, it is abundantly clear that the legislature by using the expression "shall" in respect of show cause notice as well as notice for payment of penalty has signified its intent that adherence to timeline is mandatory. Otherwise also, the CGST / KGST Act, 2017 is a fiscal statute and, therefore, required to be construed strictly.

8. We also find that a similar view has been taken by various High Courts across the country as detailed below:(chronologically – starting from the latest order)

a. Danish Hassan vs UT Of J&K & Ors WP (C) 2538/2024 of the J&K High Court , dtd 7/9/2026
b. Mohd Hazzak Lohar & Others vs Commissioner of State Tax, J&K cited in 2026 (7) TMI 1769 – J&K and Ladakh HC, dtd 23/7/2026
c. M/s. Allcargo Logistics Limited vs State of Gujarat cited in 2025 (12) TMI 1732 – Gujarat HC dtd 22/12/2025
d. Khatu Enterprises vs State of Gujarat cited in 2025 (10) TMI 1341 – Gujarat HC dtd 10/10/2025
e. Pawan Carrying Corporation vs State of Bihar, cited in (2024) 16 Centax 405 (Pat.) dtd 29/12/2024
f. K.P. Sugandh Ltd vs Chief Commissioner of CT & GST, Odisha cited in (2025) 26 Centax 62 (Ori.) dtd 17/12/2024
g. Deepam Roadways vs Deputy State Tax Officer, Chennai, cited in (2023) 3 Centax 37 (Mad.) dtd 23/1/2023
h. Tvl.Udhayan Steels Private Limited vs Deputy State Tax Officer (Int.) cited in 2023 (1) TMI 378 - MADRAS HIGH COURT dtd 28/12/2022

www.taxcode.in

We find that High Courts across the country right from 28/12/2022 to as recently as 7/9/2026 have consistently held that any violation of the mandated time limit specified in sub section 3 of Section 129(3) of the CGST Act by the proper officer vitiates the entire proceedings. The law on this point is well settled and the issue is no longer res integra.

9. In view of the finding that the order in original is a nullity and void ab initio on the grounds of the non-adherence to statutory time limits, we find that nothing else survives in this case.

10. We find that the Appellate Authority has failed to look into this basic fact which was apparent on the face of record. The impugned OIA is therefore liable to be set aside.

11. In view of the findings as above, the appeal is allowed and the Order in Appeal is set aside with consequent relief.

(Order pronounced in open court on 16/09/2026)

Subramanya Rayaprol
Vice-President

Ramamoorthi Sriram
Member (Technical)

Dated: 16/9/2026

www.taxcode.in