GOODS AND SERVICES TAX APPELLATE TRIBUNAL

ERNAKULAM BENCH

Division Bench :: Court No. I

APPEAL NO: APL/33/ERN/2026

GMG Electric , Kochi .....**Appellant**

Versus

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

Counsel for Appellant
Rahul A, 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: 06/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 GMG Electric ('Appellant') against Order-in-Appeal No. GSTA-487/2022 dated 8/122022 passed by the Joint Commissioner (Appeals), SGST Department (Keralam), Ernakulam.

2.0 Brief Facts of the Case:

2.1 The appellant is a registered taxable person bearing GSTIN:

32ACYPG2618L1ZB, engaged in the trading of Low Tension and High-Tension line materials, safety products and hardware in the State of Kerala

2.2 Vehicle No. KL-07-CJ-7593 carrying 360 Nos. of V Cross Arm Clamp with bolts and nuts to the Dy. Chief Engineer, Nilambur Electrical Circle and 1470.600 Kg of LT Stay wire to the Dy. Chief Engineer, Kondoty Electrical Division (both supplied by the supplied by the appellant) was intercepted by Assistant Sales Tax Officer, Squad No. V, Thrissur on 16.08.2021 at Aswini Junction Thrissur. Verification of e-way bills revealed that same had expired on 15.08.2021. The vehicle was detained issuing GST MOV-06 Dated: 16-08-2021and later released on furnishing of bank guarantee.

2.3 Subsequently, Order No. VC/V/GST/52/2021-22 dated 4/11/2022 under section 129(3) of KGST/CGST Act was passed confirming the demand of tax and penalty. Appeal filed against this order was rejected by the Appellate Authority vide order No. GSTA 487/2022 dated 8/12/2022. The present appeal before the Tribunal is filed against this appellate order.

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 order of detention was issued vide in FORM GST MOV-02 No. VC/V/GST/52/2021-22 Dated: 16-08-2021**.**

b. Notice No VC/V/GST/52/2021-22 under section 129(3) of the KGST/CGST Act in form GST MOV-07 was issued on 16/8/2021.

c. Order No. VC/V/GST/52/2021-22 under section 129(3) of the KGST/CGST Act 2017 confirming the demand of tax and penalty, was passed on 4/11/2022

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 notice was issued on 16/8/2021, the order under section 129(3) for payment of penalty was issued only on 4/11/2022, 445 days after the issue of notice.

6. We find that in view of the blatant violation of the statutory time limits, order No. VC/V/GST/52/2021-22 dated 4/11/2022 (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 Hon'ble 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

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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

We therefore find that High Courts across the country right from 28/12/2022 to as late as 7/9/2026 have consistently held that any violation of the mandated timeline in Sub Section 3 of Section 129 of the CGST Act by the proper officer vitiates the entire proceedings. This is a well-settled issue and is no longer res itegra.

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 lines, 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 of GMG Electric is allowed and the Order in Appeal is set aside with consequent relief.

Order pronounced in open court on 16/09/2026.

धर्मो रक्षति रक्षितः

Subramanya Rayaprol
Vice-President

Ramamoorthi Sriram
Member (Technical)

Dated: 16/9/2026

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