**GSTAT**

**Court No. Court I**

**APL/18/VRN/2026**

BITCHEM ASPHALT TECHNOLOGIES LIMITED .............**Appellant**

**Versus**

& ORS. .............**Respondent**

**Counsel for Appellant**
AMIT GOYAL, ADVOCATE
NITIN GOYAL, ADVOCATE

**Counsel for Respondent**
SHRI MANAV KUMAR VIKAS,
DEPUTY COMMISSIONER,
STATE TAX VARANASI
SHRI YOGENDRA KUMAR,
ASSISTANT COMMISSIONER,
STATE TAX VARANASI

**Hon'ble Narendra Bahadur Yadav, Member(Judicial)**
**Hon'ble Ananjai Kumar Rai, Member (Technical)**

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

**whether remand order :** No

**Order reference no. :** ZA190380926000054H **Date of order :** 22/09/2026

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| **1.** | GSTIN/Temporary ID/UIN - 092500030546TMP | |
| **2.** | Appeal Case Reference no. - APL/18/VRN/2026 | Date - 09/04/2026 |
| **3.** | Name of the appellant - BITCHEM ASPHALT TECHNOLOGIES LIMITED , dshukla@bitchem.com , 9127010841 | |
| **4.** | Name of the respondant -<br>1. Shri Prakash Yadav Joint Commissioner(IT) State Tax Headquarters Lucknow , | |

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| | ctithqlu-up@nic.in , 7235002314<br>2. |
| **5.** | Order appealed against - AD090825074143W |
| | **(5.1) Order Type -** Enforcement Order |
| | **(5.2) Ref Number -** ZD0912255622295 — Date - 31/12/2025 |
| **6.** | Personal Hearing - 22/09/2026 08/09/2026 03/09/2026 05/08/2026 |
| **7.** | Status of Order under Appeal - Reject - Order under Appeal is annulled |
| **8.** | Order in brief - The appeal is allowed and impugned orders under challenge dated 16.06.2025 and 31.12.2025 passed by Adjudicating Authority and Ist Appellate Authority are hereby quashed. The amount of Rs. 6,48,366 deposited under protest as penalty shall be refunded to the appellant as per law and rules. The parties shall bear their own respective costs. |

**Summary of Order**

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| **9.** | If demand order then whether demand quantified: No |

| **10.** | For Other orders and Demand orders which are not quantified: | |
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| Issues as raised by proper officer | Issues as determined by Appellate/Revisional authority | Order by GST Appellate Tribunal |
| Levy of Penalty | As per Statement of Facts Enclosed as Annexure B | The appeal is allowed and impugned orders under challenge dated 16.06.2025 and 31.12.2025 passed by Adjudicating Authority and Ist Appellate Authority are hereby quashed. The amount of Rs. 6,48,366 deposited under protest as penalty shall be refunded to the appellant as per law and rules. The parties shall bear their own respective costs. |

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| Place :VARANASI | Signature |
| Date : 22.09.2026 | Anshuman Pandey |
| | Designation : Upper Divisional Clerk |
| | Jurisdiction :Varanasi |

## ORDER

**Per: Ananjai Kumar Rai, Technical Member (State)**

Orders dated 16.06.2025 and 31.12.2025 passed by Proper Officer / Adjudicating Authority / Assistant Commissioner, Mobile Unit Ist, Chandauli and Additional Commissioner Gr. II (Appeal-I), State Tax, Varanasi respectively have been challenged by filing instant appeal.

2. The grounds of appeal are being stated in brief. The impugned orders are contrary to facts and law due to reason that the authority below utterly failed to consider the facts that no discrepancies existed in document. The GST Act and Rules does not prescribe the provision to adopt any specific route by intercepted vehicle. The authorities below also failed to consider that by virtue of law the E-way Bill has only to contain the description of the place of supply and delivery and no route map is required to be detailed therein. The authorities below did not consider that provisions of section 129 may not be invoked in the event of opting long route due to genuine commercial reasons and safety measures arising in the area of difficult terrain for heavy loaded vehicle. The explanation submitted by appellant and statement of driver regarding such situation had neither been considered by proper officer nor by first appellate authority. The proper officer as well as first appellate authority ignored the principle that the provisions of section 129 of GST Act cannot be invoked merely on the basis of suspicion basing the imaginary facts which are nothing more than conjecture and surmises. The principle has also been ignored that if taxpayer had no intention to evade the tax due to lack of material and evidence on record, the penalty could not be imposed under section 129. While passing impugned order the principle of natural justice has also been violated. Lastly it is prayed to set aside the impugned orders and the amount of penalty deposited under protest be refunded to the appellant.

3. The appellant uploaded the copies of original order passed by Proper Officer, order passed in appeal, E-way Bill, Tax Invoice and other relevant documents.

4. Heard argument of Shri Amit Goyal, Advocate, learned counsel of appellant virtually and Shri Manav Kumar Vikas, Deputy Commissioner as well as Shri Yogendra Kumar, Assistant Commissioner, learned State Representatives for respondent State. Apart from verbal submission through virtual mode learned counsel of appellant uploaded written submission on the portal. We carefully perused the record hearing arguments of representatives of the respective parties.

5. Placing reliance upon *M/s Vishal Steel Supplier v. State of U.P., (2024) 164 taxmann.com 609; Excide Industries Ltd. v. Additional Commissioner Grade-II (Appeal)-1, State Tax (2024) 164 taxmann.com 579; AA Plastics Pvt. Ltd. v. Additional Commissioner Grade 2 (2024) 165 taxmann.com 564; M/s Midtown Associates v. Additional Commissioner- WT No. 433 of 2020 decided on 09.05.2024 (Allahabad HC); M/s Falguni Steels v. State of U.P. and others, 2024:AHC:11990; Hindustan Steel Ltd. v. State of Orissa (1969) 2 (SCC 627); Assistant Commissioner (ST) vs. Satyam Shivam Papers Pvt. Ltd. SLP 21132 of 2021* and judgments passed in few other cases, the learned Counsel appearing on behalf of appellant re-iterated the version as stated in memo of appeal.

6. Shri Manav Kumar Vikas, Deputy Commissioner and Yogendra Kumar, Assistant Commissioner / State Representatives vehemently opposed the verbal as well as written submissions made by learned counsel of appellant. It is argued on behalf of respondent State

that the longer route should never be preferred when shorter route is available while situation exists to enter in another state via longer route. It is further argued that the such situation leads to believe that appellant intended to evade the tax by delivering goods somewhere in Uttar Pradesh intruding in its geographical area without any plausible reason. On behalf of respondent reliance has been placed upon decision of Hon'ble Madras High Court in *M/s J.R. Metal Chennai Ltd. Vs. The State Tax Officer decided on 21.07.2025*. In such referred case, Hon'ble Madras High Court was pleased to direct for filing the appeal before appropriate forum and with such observation the petition has been dismissed.

7. It would be appropriate to narrate the facts in brief. Vehicle no. CG 04 MD 9585 loaded with 29 metric ton (145 drums) Tailor Made Cold Binder got intercepted on 09.06.2025 by Mobile Squad Unit – I st Naubatpur, Chandauli at Saiyyadraja, District Chandauli Uttar Pradesh while it was being driven at NH-2. The SCN/MOV-07 was issued mentioning the reason of detention as discrepancies of 150 km distance from destination and intrusion of vehicle in Uttar Pradesh without any necessity which created doubt that taxable goods might have been transported to some other recipient in Uttar Pradesh.

8. The appellant supplier submitted reply before Proper Officer / Adjudicating Authority stating that the longer route had been opted only to avoid the area of difficult terrain creating difficulty to drive heavy loaded commercial vehicles and also for safety measures.

9. Disbelieving the version of appellant mentioned in reply the Proper Officer / Adjudicating Authority passed order on 16.06.2025 imposing penalty of Rs 6,48,366 (IGST) which was paid under protest by appellant; so as to release the vehicle with goods for safe delivery to the consignee.

10. The order passed by Proper Officer / Adjudicating Authority was challenged before Appellate Authority/Additional Commissioner Gr. II, Appeal Ist, State Tax, Varanasi. Learned Appellate authority/Additional Commissioner dismissed the appeal vide order dt. 31.12.2025 as mentioned in APL-04. Being aggrieved by such orders instant appeal has been preferred by the appellant.

11. The vehicle in question had been driven with valid documents remain undisputed. On the basis of submissions made on behalf of parties the main point for consideration before this Bench may be narrated as: Whether transportation of vehicle no. CG 04 MD 9585 loaded with 29 metric ton Tailor Made Cold Binder in 145 drums intruded in geographical area of Uttar Pradesh with intent to evade the tax travelling about more than 200 km excess opting longer route instead of about 70 km available shorter route.

12. The respondent State has not shown the place of destination in Uttar Pradesh where the appellant intended to consign the goods opting longer route. The explanation submitted in reply of SCN appears as plausible and reasonable because the facts remain unrebutted that area falling in between shorter route of 70 km falls in hilly region which may create obstacle while passing commercial heavy loaded vehicles. In such circumstances the suspicion cannot be raised if safer long route would have been opted to transport the goods loaded with commercial heavy vehicle.

13. Like old law in VAT, no provision is encompassed under GST Act/Rules to declare the route for transportation of goods. Complying such provisions the route has not been disclosed in the documents generated to transport the goods by appellant. If statute does not require to

disclose any specific route and diversion of route to avoid complex situation to be arisen in hilly area opting longer route does not attract the situation to imagine that the appellant would have intended to evade the tax.

14. In *M/s Om Prakash Kuldeep Kumar v. Additional Commissioner Gr. II (2023) 155 taxmann.com 249* Hon'ble Allahabad High Court clarified the distinction between the historical VAT era and the modern GST era. The Hon'ble court observed that under previous state VAT Laws, dealers were legally bound to declare the specific transit route but under the Central/State GST Acts or Rules, there is no provision requiring an assessee to declare or rigidly stick to a designated route of transportation and in such circumstances taking an alternative or longer route for logistical reasons does not constitute a statutory basis for detention.

15. In the present appeal nothing is brought on record to ascertain that the appellant taxpayer would have actually intended to evade the tax. The position is crystal clear that the goods loaded with vehicle had been transported with valid documents. It is also established that the diversion of route occurred due to difficult terrain falling in shorter route and no any statutory provision has been violated.

16. In the light of observations made above it is concluded that the diversion of route had been opted to transport the goods loaded with vehicle no. CG 04 MD 9585 due to difficult terrain falling in shorter route and the transportation with valid documents required under law did not constitute mala fide intention of taxpayer to evade the tax. Accordingly, the appeal is liable to be allowed.

17. The appeal is allowed and impugned orders under challenge dated 16.06.2025 and 31.12.2025 passed by Adjudicating Authority and Ist Appellate Authority are hereby quashed. The amount of Rs. 6,48,366 deposited under protest as penalty shall be refunded to the appellant as per law and rules. The parties shall bear their own respective costs.

(Order pronounced in the open Court on 22nd day of September, 2026.)

(Narendra Bahadur Yadav)

(Ananjai Kumar Rai)

**Dated: 22.09.2026**