GSTAT

Division Bench Court No. Court II

APL/12/BUR/2026

T STANES AND COMPANY LIMITED **.....Appellant**

Versus

SULAKSHANA S N, JCCT(APPEALS)MANGALURU, THE JOINT COMMISSIONER OF COMMERCIAL TAXES (APPEALS) VANIJYA TERIGE BHAVAN MAIDHAN ROAD MANGALURU- 575001 & ORS. **.....Respondent**

Counsel for Appellant
GOWRISHANKAR.S.S

Counsel for Respondent
RUKMINI M. AC SGST

Hon'ble Sudha Koka, Member (Technical)
Hon'ble Srikanth Venkatraman, Member(Judicial)

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. : ZN290170926000214H **Date of order :** 29/09/2026

1.	GSTIN/Temporary ID/UIN - 29AAACT7126P1ZR	
2.	Appeal Case Reference no. - APL/12/BUR/2026	Date - 22/04/2026
3.	Name of the appellant - T STANES AND COMPANY LIMITED , gst@t-stanes.com , 7010075241	
4.	Name of the respondant - 1. JCCT (e-Audit) , jccte-audit@ctd.ka.gov.in , 9448811330 2. SULAKSHANA S N	
5.	Order appealed against -	
	(5.1) Order Type - Enforcement Order	
	(5.2) Ref Number - GST/AP/116/2024-25 DATED 21.05.2025	Date - 21/05/2025
6.	Personal Hearing - 29/09/2026 17/09/2026	
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled	

8.	Order in brief - (i) The order of the Joint Commissioner of Commercial Taxes (Appeals), Mangaluru, passed in order-in-appeal no. GST/AP/116/2024-25 dated 21.05.2025 confirming the levy of penalty of Rs. 9,40,880/- under Section 129 of the Central Goods and Services Tax Act, is set-aside. (ii) The appeal is allowed.

Summary of Order

9.	If demand order then whether demand quantified: Yes

Section-I

Particulars	Central tax		State/UT tax		Integrated tax		Cess		Total	
	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount
1	2	3	4	5	6	7	8	9	10	11
(a) Tax	0		0		0		0		0	0
(b) Interest	0		0		0		0		0	0
(c) Penalty	470440		470440		0		0		940880	0
(d) Fees	0		0		0		0		0	0
(e) Others										0
(f) Refund										0

10.	For Other orders and Demand orders which are not quantified:	
Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Levy of Penalty	The Appellate Authority affirmed invocation of Section 129(1)(b) of of CGST and KGST Act, 2017 and upheld the imposition of penalty.	The penalty imposed under section 129 is setaside. The appeal is allowed.

Place :BENGALURU

Signature

Date : 29.09.2026

BENGALURU Srikanth Venkatraman

Designation : Member

Jurisdiction :Bengaluru

ORDER

Per: Srikanth Venkatraman

(1) The appellant, M/s T. Stanes and Company Limited, has filed this appeal against the order of the Joint Commissioner of Commercial Taxes (Appeals), Mangaluru ("the Appellate Authority"), passed in order-in-appeal No. GST/AP/116/2024-25 dated 21.05.2025. The Appellate Authority had confirmed the penalty imposed under Section 129 of the Central Goods and Services Tax Act, 2017 ('the Act')

(2) The facts are that a goods conveyance bearing Number KA35C3989 was intercepted by the Commercial Tax Officer on (Enforcement) – 2, Ballari ("the proper officer") on 18.03.2024 at 08:35 AM. The consignment was accompanied by a delivery challan dated 16.03.2024 and an e-way bill, carrying insecticides from the appellant to M/s Cheminova India Limited, Bellari- 583102, for the purpose of purchase return. The e-way bill's validity expired on 17.03.2024 at 11:59 AM. The proper officer treated the movement of goods with an expired e-way bill as movement of goods without an e-way bill. A notice dated 25.03.2024 in Form GST MOV-07 was issued proposing to impose a penalty under Section 129 of the Act. The appellant came forward to pay the penalty of Rs. 9,40,880/- to obtain release of the consignment. The proper officer passed an order dated 30.03.2024, in Form GST MOV-09, imposing a penalty of Rs. 9,40,880/- under Section 129 of the Act.

(3) The Appellate Authority dismissed the appeal by order dated 21.05.2025. The Appellant had contended that due to a typographical error, the pin code of the consignor and the consignee was entered as 583102. This clerical error reduced the distance of travelling from Hubli to Ballari from 215 Kms to 100 kms in the E-way bill. The consignment was accompanied by an E-way bill and delivery challan, and there was also no intention to evade the payment of taxes due to the Government. The supply was a non-taxable supply, and hence there was no tax due to the Government. The Appellate Authority held that non-compliance of the legal requirement of the law renders the goods and conveyance liable for detention as stipulated in the law. It was clearly established that the goods were transported in clear violation of the provisions of the Act and the rules. The Appellate Authority had relied on the decision of the Madhya Pradesh High Court in the case of *Gati Kinetsu Express Private Limited Vs. Commercial Tax Department [2018 (15) GSTL 310]* and of the Kerala High Court in the case of *Podaran Foods India limited Vs. The State of Kerala [2021 (50) GSTL 412]*

(4) The learned counsel for the Appellant, Mr S.S. Gowrishankar, made the following submissions;

1. It was submitted that the pincode of the consignor and the consignee was inadvertently mentioned as 583102, whereas the pincode of the consignor was 580025, resulting in the auto-population of the distance as 100 km instead of the actual distance of 215 kms, thereby resulting in the expiry of the E-way bill before delivery of the consignment;
2. It was submitted that the error was a clerical mistake only and that there was no intention to commit any wrong. The proper officer did not find any other mistake on the physical verification of the goods with other documents accompanying the consignment;
3. The circular of the board in circular No. 41/15/2018-GST dated 13.04.2018 was relied on to contend that Section 129 cannot be invoked for clerical mistake. The error in the pin code had not resulted in increasing the validity period of the e-way bill, but on the contrary, there was a decrease in the validity period of the E-way bill.

4. Reliance was placed on the following decisions, namely, *(I) 2024(7) TMI 370 (The landmark cars Pvt, ltd. Vs. Union of India), (II) 2024(9) TMI 1013 (Rimjhim Ispat Ltd. Vs. State of Uttar Pradesh), (III) 2025(6) TMI 254 (M/s Auto Industries Vs. State of Uttar Pradesh), (IV) 2024(10) TMI 1239 (M/s T.P. Metals and Roofings Vs. Assistant Tax officer (Int), Mallapuram), (V) 2024(12) TMI 210 (Excellent poly con Pvt. Ltd. Vs the State Tax officer, Bureau of Investigation Kharagpur and others), (VI) 2025(1) TMI 837 (M/s Creamline Dairy products Ltd. V/s the state Tax officer, Adjn, Intelligence-1, Chennai).*

(5) The learned Authorised Representative for the respondent, Ms. Rukmini, Assistant Commissioner, would rely on the reasoning of the Appellate Authority. The learned authorised representative would submit that there was a clear violation of the Act and rules and hence Section 129 was properly invoked. Reliance was placed on the decision of the Madras High Court in the case of *Caterpillar India (Madras) Vs. State Tax Officer, Chennai [2019 (27) GSTL 4]* and of the Kerala High Court in the case of *Podaran Foods India limited Vs. The State of Kerala [2021 (50) GSTL 412]* and prayed for the dismissal of the appeal.

(6) The decisions relied upon by the appellant are as under:

(a) the Gujarat High Court in the decision reported in *2024(7) TMI 370 (The Landmark Cars Pvt, ltd. Vs. Union of India)* had held that a mistake occurring in entering the correct vehicle number in Part B of the e-way bill was a minor error only as intention to evade payment of taxes was absent;

(b) the Allahabad High Court in the decision reported in *2024(9) TMI 1013 (Rimjhim Ispat Ltd. Vs. State of Uttar Pradesh)* had held that *the* value of the goods entered as Rs. 2,70,00,000/- in the e-way bill instead of Rs. 27,00,000/- in the invoices was only a typographical error, without any intention to evade payment of taxes;

(c) the Allahabad High Court in the decision reported in *2025(6) TMI 254 (M/s Auto Industries Vs. State of Uttar Pradesh)* had held that non-filling up Part B of the e-way bill was a mistake and did not warrant invoking Section 129 of the Act;

(d) the Kerala High Court in the decision reported in *2024(10) TMI 1239 (M/s T.P. Metals and Roofings Vs. Assistant Tax Officer (Int), Mallapuram)*, had held that penalty under Section 129 can be imposed only if the violation had happened with the intention to evade payment of taxes. Identical principles were laid down by the Calcutta High Court in the decision reported in *2024(12) TMI 210 (Excellent poly con Pvt. Ltd. Vs the State Tax Officer, Bureau of Investigation Kharagpur and others)* and by the Madras high Court in the decision reported in *2025(1) TMI 837 (M/s Creamline Dairy Products Ltd. Vs. the State Tax Officer, Adjn, Intelligence-1, Chennai)*.

(7) The decisions relied upon by the respondent are as under:

(a) The Madhya Pradesh High Court in the case of *Gati Kinetsu Express Private Limited vs. Commissioner of Commercial Taxes [2018 (15) GSTL 310]* had held that penalty under Section 129 was justified as Part B of the e-way bill, furnishing all the details including the vehicle number, was not updated before the goods were loaded in the vehicle.

(b) The Madras High Court, in the case of *Caterpillar India (Madras) Vs. State Tax Officer, Chennai [2019 (27) GSTL 4]*, had held that it was the assessing officer/State Tax Officer who was the competent person for the determination of penalty.

(c) The Kerala High Court in the case of *Podaran Foods India limited Vs. The State of Kerala [2021 (50) GSTL 412]* had held that the detaining authority did not have the discretion to release the consignment on terms that are less than what was specified in Section 129(1) of the Act.

(8) Heard the rival submissions and perused the connected records. The following issue arises for our consideration –

"Whether the imposition of penalty under Section 129 of the Central Goods and Services Tax Act is justified, for the reason of non-validation/extension of the period of the e-way bill as per Rule 138 of the Central Goods and Services Tax Rules".

(9) It is an undisputed fact that when the vehicle was intercepted on 18.03.2024 at 8.35 AM, it was accompanied by an e-way bill and a delivery challan. The e-way bill had expired on 17.03.2024 at 11.59 AM, and hence the movement of goods was treated as movement of goods without an e-way bill. A physical verification of the goods was done on 25.03.2024, and the quantity and description of goods were found to be in order with the document tendered during the time of inspection. The reason offered was that the pin code of the consignor and the consignee was entered as 583102, thus reducing the distance of travelling from Hubli to Ballari from 215 Kms to 100 kms in the E-way bill.

(10) Section 129 of the Act empowered the proper officer to demand a penalty equal to 200% of the tax payable on the goods, in case of violation of the provisions of the Act or the rules, during transport of the goods. Though the Section does not specifically provide for the application of mens rea, still the object of enacting such a Section in a taxing enactment is only for the purpose of preventing evasion of tax and mens rea should be read into Section 129. The Central Board of Indirect Taxes and Customs ('the Board') had issued instructions vide circular no. 64/38/2018-GST dated 14.09.2018 giving instances of cases where Section 129 need not be invoked. This circular is binding on the authorities like the proper officer by virtue of Section 168 of the Act.

(11) The decisions cited by the respondent do not support the case of the respondent for the following reasons;

(a) The decision of the Madhya Pradesh High Court in the case of *Gati Kinetsu Express private limited Vs. Commissioner of Commercial Taxes [2018 (15) GSTL 310]* cannot be applied for two reasons. Firstly, the view expressed by the Madhya Pradesh High Court was not subscribed by the Karnataka High Court in the case of *BVM Trans Solutions private limited Vs. Commercial Tax Officer [(2025) 37 Centax 391]*, as could be seen from para 12 of the report. Secondly, the view of the Karnataka High Court was that non-filling up of Part B of the e-way bill does not warrant invoking Section 129 of the Act in the absence of any intention to evade payment of taxes.

(b) The decision of the Madras High Court in the case of *Caterpillar India (Madras) Vs. State Tax Officer, Chennai [2019 (27) GSTL 4]* supports the case of the appellant. The High Court, after referring to the circular of the Board, held that a *holistic reading of the statutory provisions and the Circular noted above indicates to me that the Department does not paint all violations/transgressions with the same brush and makes a distinction between serious and substantive violations and those that are minor/procedural in nature* . The officers were directed to pass fresh orders keeping in mind the instructions of the board and the explanations offered by the petitioners.

(c) The decision of the Kerala High Court in the case of *Podaran Foods India Limited Vs. The state of Kerala [2021 (50) GSTL 412]* supports the case of the appellant. The Court held that *Section 129 was merely a machinery provision that is intended to check evasion of tax and which must be read along with the substantive provisions of the statute that provide for the levy and collection of tax.* The Court further held that *it has to be borne in mind that Section 129 forms part of the machinery provisions under the Act to check evasion of tax and a detention can be justified only if there is a contravention of the provisions of the Act in relation to transportation of goods or their storage while in transit.*

(12) The decisions relied on by the appellant apply to the issue under dispute. The Courts have repeatedly held that procedural lapses or mistakes cannot be a ground for invoking Section 129 of the Act in the absence of any intention on the part of the taxpayer to evade payment of taxes. The reasonableness of the explanation offered by a taxpayer is a relevant factor to be kept in mind before invoking Section 129. The appellate authority has not alleged the existence of mens rea on the part of the appellants to evade payment of taxes. We hold that the invoking Section 129 of the Act was not valid and justified, in the facts and circumstances of the case.

Conclusion

(i) The order of the Joint Commissioner of Commercial Taxes (Appeals), Mangaluru, passed in order-in-appeal no. GST/AP/116/2024-25 dated 21.05.2025 confirming the levy of penalty of Rs. 9,40,880/- under Section 129 of the Central Goods and Services Tax Act, is set-aside.

(ii) The appeal is allowed.

(Sudha Koka)

(Srikanth Venkatraman)

Dated: 29.09.2026