GSTAT

Division Bench Court No. Court II

APL/190/BUR/2026

JSW STEEL COATED PRODUCTS LIMITED **.....Appellant**

Versus

STATE GST KARNATAKA, JOINT COMMISSIONER OF COMMERCIAL TAXES (APPEALSâ€‘5) BENGALURU, OFFICE OF THE JOINT COMMISSIONER OF COMMERCIAL TAXES (APPEALSâ€‘5)3RD FLOOR VTK-2 KORAMANGALA BENGALURU â€“ 560047 & ORS. **.....Respondent**

Counsel for Appellant
SANJAY SINGH

Counsel for Respondent
PRIYA BASAPPA DC AR STATE

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. : ZA270170926000168H **Date of order :** 28/09/2026

1.	GSTIN/Temporary ID/UIN - 27AACCM3988L1ZU	
2.	Appeal Case Reference no. - APL/190/BUR/2026	Date - 17/04/2026
3.	Name of the appellant - JSW STEEL COATED PRODUCTS LIMITED , haribabu.koduri@jsw.in , 9665050845	
4.	Name of the respondant - 1. JCCT (e-Audit) , jccte-audit@ctd.ka.gov.in , 9448811330 2. State GST Karnataka 3. State GST Karnataka 4. Joint Commissioner of Commercial Taxes (Appealsâ€‘5)	
5.	Order appealed against -	
	(5.1) Order Type - Other order	
	(5.2) Ref Number - GST.AP.19/19-20	Date - 18/02/2020

6.	Personal Hearing - 28/09/2026 16/09/2026 07/09/2026 28/07/2026 20/07/2026 13/07/2026 07/07/2026
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) – 5, Bangalore, passed in order-in-appeal no. GST. AP.19/19-20 dated 18.02.2020 confirming the levy of integrated tax of Rs. 2,72,294/- and penalty of Rs. 2,72,294/- 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	0		0		0		0		0	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
Any other	The Appellate Authority upheld the levy holding that movement with expired eway bill amounted to movement without valid documents and confirmed tax and penalty.	The appeal is allowed. The order levying tax and penalty setaside.

Place :BENGALURU

Signature

Date : 28.09.2026

BENGALURU Srikanth Venkatraman

Designation : Member

Jurisdiction :Bengaluru

ORDER

Per: Srikanth Venkatraman

(1) The appellant, M/s. JSW Steel Coated Products Limited, has filed this appeal against the order of the Joint Commissioner of Commercial Taxes (Appeals) – 5, Bangalore ("the appellate authority") passed in order-in-appeal no. GST. AP.19/19-20 dated 18.02.2020. The appellate authority confirmed the levy of integrated tax of Rs. 2,72,294/- and penalty of Rs. 2,72,294/- imposed under Section 129 of the Central Goods and Services Tax Act ("the Act") by the Commercial Tax Officer, Vigilance 24, Bangalore ("the proper officer").

(2) The facts are that a conveyance bearing No. AP16TY5018 was intercepted by the proper officer on 24.06.2019 @ 12.45 AM. The consignment was accompanied by (i) lorry receipt dated 20.06.2019, (ii) tax invoice Nos. 19KL2700011917 and 19KL2700011918 dated 20.06.2019, (iii) two e-way bills bearing nos. 261115787422 and 231115787423 dated 20.06.2019 and (iv) test certificate no. 7102013196 dated 20.06.2019. A verification of the documents revealed that the e-way bills raised on 20.09.2019 @ 12.52 PM had expired on 21.06.2019. The proper officer treated the consignment as not supported by documents/e-way bills for the movement of goods from Nagpur to Hulugondanahalli, Ramnagar district and a notice dated 25.06.2019 in Form GST MOV 07 was issued invoking Section 129 of the Act.

(3) The appellant had submitted their objections vide letter dated 29.06.2019 stating that they had taken a software for generation of e-way bills that automatically calculated the distance and incorporated the validity period, upon entering the destination details. The operator on duty had entered 'Ramnagar' instead of "Ramanagara" in the system while generating the e-way bills for the invoices. Ramnagar is located in Nagpur district, Maharashtra and hence the system had taken the distance as 83 kms and accordingly the validity of the e-way bills was till 21/06/2019. The explanation was rejected as general in nature and not supported by valid documents. The proper officer was of the view that the transaction would have gone unaccounted had the consignment not been intercepted and documents not verified.

(4) The appellate authority dismissed the appeal by order dated 18.02.2020. The Appellate Authority reiterated the reasoning of the proper officer and relied on the decision of the Madhya Pradesh High Court in the case of *Gati Kinetsu Express Private Limited v. Commissioner of Commercial Taxes [2018 (15) GSTL 310]*. The appellant had relied on the decision of the Kerala High Court in the case of *Sabitha Riyaz Vs. Union of India [2018 (19) G.S.T.L. 393]* and a circular of the Board. The Appellate Authority was of the view that as the appellant had relied on the decision of the Kerala High Court and a circular of the Board, they were aware of the provisions clearly but failed to extend the validity of the e-way bill. The appellant was transporting goods on the basis of an expired e-way bill. Hence, penalty under Section 129(3) was rightly levied. The goods in transit were liable for penalty under Section 129 (3) of the Act. Hence, the present appeal before the Tribunal.

Submissions of the appellant

(5) The learned authorised representative for the appellant, Mr. Sanjay Singh, has contended as under:

(a) the allegation that the transaction would have gone un-accounted had the vehicle not been inspected and loss of revenue is totally unwarranted as the consignment was accompanied by invoices, the details of which were already uploaded and available on the E-way bill portal and on record;

(b) the mistake in the e-way bill due to mistake in calculation of the distance does not warrant detention of vehicle and levy of penalty, unless and until department establishes intention to evade tax;

(c) the writing a place of dispatch as '**Ramnagar'** in the State of Maharashtra, instead of **'Ramanagara'** in the State of Karnataka is a typographical error and does not warrant detention of vehicle and levy of penalty;

(d) the allegation of revenue loss to the exchequer without any evidence, merely on account of expiry of e-way bills validity is not legal;

(e) reliance was placed on the following decisions, namely, (a) *Sabitha Riyaz Vs. Union of India [2018 (19) G.S.T.L. 393]; (b) Tirthamoyee Aluminium Products Vs. State of Tripura 2021 (50) G.S.T.L. 496 (Tripura), (c) Metropolis Logistics Pvt Ltd Vs. Additional Commissioner And 2 Others [2025(12) TMI 1300] [Allahabad)], (d) Satyam Shivam Papers Pvt. Ltd. Vs. Asstt. Commr. of S.T., Hyderabad [2021 (50) G.S.T.L. 459 (Telangana)], (e) Assistant Commissioner (St) Vs. Satyam Shivam Papers Pvt. Ltd. 2022 (57) G.S.T.L. 97 (S.C.).*

(6) The decisions relied by the appellant are as follows;

(a) The Kerala High Court in the case of *Sabitha Riyaz Vs. Union of India [2018 (19) G.S.T.L. 393]* had held that the e-way bill showed the distance as 280 Kms, instead of 2800 Kms — one zero missing. This cannot be anything other than a typographical error, and a minor at that. An identical principle was stated by the Tripura High Court in the case of *Tirthamoyee Aluminium Products Vs. State of Tripura [2021 (50) G.S.T.L. 496]* and by the Allahabad High Court in the case of *Metropolis Logistics Pvt Ltd Vs. Additional Commissioner And 2 Others [2025(12) TMI 1300].*

(b) The Telangana High Court in the case of *Satyam Shivam Papers Pvt. Ltd. Vs. Asstt. Commr. of S.T., Hyderabad [2021 (50) G.S.T.L. 459]* had held in paragraph 42 of the report that *on account of non-extension of the validity of the e-way bill by petitioner or the auto trolley driver, no presumption can be drawn that there was an intention to evade tax.* The view of the Telangana High Court was confirmed by the Supreme Court in the case of *Assistant Commissioner (St) Vs. Satyam Shivam Papers Pvt. Ltd. [2022 (57) G.S.T.L. 97].*

Submissions of the respondent

(7) The learned authorised representative for the respondent, Ms. Priya Basappa, Deputy Commissioner, would rely on the reasoning of the Appellate Authority and the proper officer. The learned authorised representative filed written submissions and contended as follows:

(a) The transporting of goods under the cover of an expired e-way bill is legally equivalent to transporting goods without a valid e-way bill, constituting an absolute contravention of Section 68 of the CGST/KGST Act read with Rule 138 and Rule 138A of the CGST/KGST;

(b) The Circular No. 64/38/2018-GST dated 14th September 2018 issued by CBIC clarifies the procedure for interception and detention under Section 129. Paragraphs 3 and 4 of the Circular state that carrying goods without a valid e-way bill constitutes a clear contravention invoking Section 129 proceedings;

(c) Proof of mens rea or fraudulent intent to evade payment of tax is not a required statutory ingredient under Section 129. The Appellant's defense centered on 'absence of intent to evade tax' is legally misplaced, as subjective mental intent is relevant solely under Section 130 confiscation proceedings;

(d) Explanation 2 to Rule 138(3) and the statutory scheme under Rule 138(10) explicitly establish that an e-way bill shall NOT be valid for movement of goods by road unless all required details are furnished and the movement occurs within the live validity period. Once the validity period elapses, the e-way bill loses its

statutory force and becomes an invalid document for transit;

(e) Where a taxpayer or transporter fails to utilise this statutory 8-hour post-expiry extension facility and continues transporting goods on public highways with an expired e-way bill, such conduct exhibits a total lack of statutory vigilance and cannot be condoned under the guise of an 'accidental slip' or 'bona fide mistake';

(f) Reliance was placed on the decision of the Calcutta High Court reported in *2023 (72) GSTL 15 (Ashok and Sons (HUF) Vs. Joint Commissioner, state tax, Siliguri)*, of the Supreme Court in the decisions reported in *2007 (8) TMI 344 (Guljag Industries Vs. Commercial Tax Officer, 2008 (231) ELT 3 (Union of India Vs. Dharamendra Textile Processors)* and 2024 *(82) GSTL 226 (Vardan Associates Private Limited Vs. Assistant Commissioner of State Tax)* and prayed for dismissal of the appeal.

(8) The decisions relied upon by the respondent are as follows:

(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 Calcutta High Court in the decision reported in *2023 (72) GSTL 15 (Ashok and sons (HUF) Vs. Joint Commissioner, State Tax, Siliguri)*, while considering the issue of an expired e-way bill, held that the respondent authority was lawfully permitted to impose a penalty under Section 129 as the goods were found to be detained in the territory of the state.

(c) The Supreme Court in the decision reported in *2007 (8) TMI 344 (Guljag Industries Vs. Commercial Tax Officer)* interpreted Section 78(5) of the Rajasthan Sales Tax Act, which provided for imposition of penalty at 30% of the value of the goods. The Court was considering cases where the movement of goods was accompanied by a blank Form ST 18A. The Court found that except for a signature, the entire Form was kept blank and hence was meaningless. Without a description of the goods in the Form, it was easy to manipulate the value of the goods. The Court held that movement of goods was not supported by a duly filed Form 18A/18C. If the declaration Form is left blank, then in that event section 78(5) provides for imposition of monetary penalty for non-compliance. Default or failure to comply with section 78(2) is the failure/default of a statutory civil obligation and proceedings under section 78(5) are neither criminal nor quasi-criminal in nature. The penalty is for a statutory offence. The Court found that the modus operandi adopted by the assessee itself indicated mens rea. Therefore, there is no question of proving intention or of mens rea as the same is excluded from the category of essential elements for imposing penalty;

(d) The Supreme Court in the decision reported in *2008 (231) ELT 3 (Union of India Vs. Dharamendra Textile Processors)* was interpreting Section 11AC of the Central Excise Act. The Court held that the Adjudicating Authority did not have the discretion to levy a penalty higher than what was legally and statutorily leviable. The imposition of penalty was a mandatory penalty.

(e) The Supreme Court in the decision reported in 2024 *(82) GSTL 226 (Vardan Associates private limited Vs. Assistant Commissioner of State Tax)* confined its consideration to the quantum of penalty. The Court held that the appellant cannot shirk his responsibility of complying with the requirement in law to generate a fresh e-way bill. The quantum of penalty was reduced to 50%. This order was passed under article 142 of the Constitution of India and held that the order shall not be treated as a binding precedent.

Findings

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

"Whether the imposition of tax and penalty under Section 129 of the Act is justified, for the reason that the period of the e-way bill had expired and the validity was not extended as per Rule 138 of the CGST Rules"

(10) It is an undisputed fact that the consignment was accompanied by lorry receipt, tax invoices, two e-way bills and a test certificate when it was intercepted on 24.06.2019 at 12.45 AM. The only defect was related to the expiry of the e-way bill. The e-way bills were raised on 20.06.2019 at 12.52 PM and expired on 21.06.2019. The reason offered for the expiry was due to a software used for generation of e-way bills that automatically calculated the distance and incorporated the validity period depending on the place of destination. The reason was rejected on the ground that it was the responsibility of the appellant to check whether the documents are in order before the movement of goods. The invoking of section 129 was justified on the sole ground of failure to extend the validity period of the e-way bills.

(11) Section 129 of the Act, as it stood during the relevant period, empowered the proper officer to demand the applicable tax and penalty equal to 100% 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. Rule 138(10) states that the e-way bill shall be valid for a particular period depending on the distance. 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 and in such situations, a penalty of Rs. 500/- each under Section 125 of the CGST Act and the SGST Act and Rs. 1000/- under the IGST Act, should be imposed for every consignment.

(12) The Gujarat High Court had considered the circular in the case of *Synergy Fertichem Private Limited vs. State of Gujarat [2020 (33) GSTL 513]* and 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.*"

(13) The decisions relied on by the respondent do not support their case 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 v. 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 Calcutta High Court reported in *2023 (72) GSTL 15 (Ashok and sons (HUF) Vs. Joint Commissioner, state tax, Siliguri)*, cannot be applied in view of the decision of the jurisdictional High Court, namely, the Karnataka High Court in the case of *BVM Trans Solutions Private Limited vs. Commercial Tax Officer [(2025) 37 Centax 391]* and the Telangana High Court in the case of *Satyam Shivam Papers Pvt. Ltd. Vs. Asstt. Commr. of S.T., Hyderabad [2021 (50) G.S.T.L. 459]* as confirmed by the Supreme Court in the case of *Assistant Commissioner (St) Vs. Satyam Shivam Papers Pvt. Ltd. [2022 (57) G.S.T.L. 97].*

(c) The decision of the Supreme Court reported in *2007 (8) TMI 344 (Guljag Industries Vs. Commercial Tax Officer)* cannot be applied in the present case as the decision was rendered in the context of a consignment accompanied by blank declaration forms. In the case before the Court, it was found that the consignment was accompanied by blank forms. The Court found that the modus operandi adopted by the assessee reflected the existence of mens rea. In the last page of the decision, the Court held that Section 78(5) of the Rajasthan Sales Tax Act was enacted to provide a remedy for loss of revenue and was not enacted to punish

the vendor for committing an economic offence and, therefore, mens rea was not an essential ingredient for contravention of Section 78(2) of the Act. The present case is not one of blank/incomplete declaration Form but one of expired e-way bill. The authorities have not held that the movement of goods on the basis of expired e-way bill had led to loss of revenue. The circular of the Board itself makes a distinction between procedural violations and substantive violations. Hence, the decision of the Supreme Court cannot be relied on for interpreting Section 129 of the Act.

(d) The decision of the Supreme Court reported in *2008 (231) ELT 3 (Union of India Vs. Dharamendra Textile Processors)* cannot be relied on as the decision was concerned with interpretation of section 11AC of the Central Excise Act and whether the authorities had the discretion to levy a penalty below the statutory minimum.

(e) The decision of the Supreme Court reported in 2024 *(82) GSTL 226 (Vardan Associates Private Limited v. Assistant Commissioner of State Tax) is* distinguishable as the Supreme Court was concerned only with the quantum of penalty. The Court did not go into the question of relevancy of mens rea as a necessary ingredient for invoking Section 129 of the Act. The Court also held that the order cannot be treated as a precedent as it was passed under Article 142 of the Constitution of India.

(14) We have verified the 2 invoices that accompanied the consignment. We find that the integrated tax had been charged on the supplies covered by the invoices. The proper officer issued a physical verification report dated 24.06.2019, in Form GST MOV 04, wherein the officer did not find any discrepancy between the description of goods as per the invoice and as per physical verification. The proper officer did not find that the movement of goods with an expired e-way bill had resulted in evasion of tax. The reasonableness of the explanation offered by a taxpayer is a factor to be considered before invoking section 129 of the Act. There was no intention to evade the payment of tax by the appellant. The principles stated in the decisions relied upon by the appellant make it clear that intention to evade taxes is the relevant factor to be kept in mind for invoking Section 129. In the facts and circumstances of the case, we hold that invoking Section 129 of the Act was not valid and unjustified.

Conclusion

(i) The order of the Joint Commissioner of Commercial Taxes (Appeals) – 5, Bangalore, passed in order-in-appeal no. GST. AP.19/19-20 dated 18.02.2020 confirming the levy of integrated tax of Rs. 2,72,294/- and penalty of Rs. 2,72,294/- under Section 129 of the Central Goods and Services Tax Act is set-aside.

(ii) The appeal is allowed.

(Sudha Koka)

(Srikanth Venkatraman)

Dated: 28.09.2026