GSTAT

State Bench Lucknow

Court No. Court I

APL/117/LCK/2026

ABDUL HAI .....Appellant

Versus

DHANANJAY KUMAR, ASSISTENT COMMISSIONER, MOBILE SQUAD - 1 KANPUR & ORS. .....Respondent

Quorum

Hon'ble Santosh Kumar Srivastava, Member(Judicial)
Hon'ble Arvind Kumar, Member (Technical)

Counsel for Appellant
MR.SUNIL KUMAR JAISWAL, ADVOCATE

Counsel for Respondent
MR. RUDRA SEKHAR RAI, DEPUTY COMMISSIONER SGST

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. : ZN090370926000631H **Date of order :** 29/09/2026

1.	GSTIN/Temporary ID/UIN - 09ADCPH1568B1ZX	
2.	Appeal Case Reference no. - APL/117/LCK/2026	Date - 07/02/2026
3.	Name of the appellant - ABDUL HAI , ahtraders017@gmail.com , 9839547736	
4.	Name of the respondant - 1. Shri Prakash Yadav Joint Commissioner(IT) State Tax Headquarters Lucknow , ctithqlu-up@nic.in , 7235002314 2. Dhananjay kumar 3. RAM PRAKASH	
5.	Order appealed against - AD091025006168B	
	(5.1) Order Type - Enforcement Order	

	(5.2) Ref Number - ZD091125470136F	Date - 26/11/2025
6.	Personal Hearing - 29/09/2026 07/09/2026 02/09/2026 23/07/2026 21/05/2026 18/05/2026 08/05/2026	
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled	
8.	Order in brief - M/s A H Traders challenged a penalty of Rs. 1,07,730 under Section 129 for discrepancies in the address mentioned in the documents accompanying a consignment of arecanuts. The authority held that the discrepancies were technical/procedural, with no sufficient evidence of tax evasion. Since the goods were accompanied by valid documents, the penalty was unsustainable. Decision: The appeal was allowed, and the penalty order was set aside.	

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		107730	0	0		107730	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 (Kanpur) upheld the penalty and rejected the appeal via order dated 26.11.2025.	In view of the facts, circumstances, submissions of the parties and the findings recorded hereinabove, the present appeal filed by M/s A H Traders (Abdul Hai), GSTIN 09ADCPH1568B1ZX, is hereby allowed.

Place :LUCKNOW

Date : 30.09.2026

Signature

LUCKNOW ANAMIKA DEVI

Designation : Stenographer/Law researcher

Jurisdiction :Lucknow

ORDER

1. Brief Facts of the Case

1.1. The present second appeal has been filed by M/s A H Traders (Abdul Hai), having GSTIN 09ADCPH1568B1ZX and place of business at 159/004, Subhan Nagar, Rakabganj, Lucknow, Uttar Pradesh, against Order-in-Appeal No. AD09102500616 8B dated 26.11.2025, passed by the Additional Commissioner, Grade-II (Appeal), State Tax, Kanpur, whereby the first appeal filed by the appellant against the penalty imposed under Section 129(3) of the CGST/UPGST Act, 2017, read with Section 20 of the IGST Act, 2017, was rejected and the penalty imposed by the proper officer was upheld.

1.2. The facts of the case emanate from the interception of a vehicle bearing Registration No. UP65H9147 on 18.08.2025, while it was transporting a consignment of arecanuts (HSN Code 080280), weighing 3,990 kg. The goods were being transported from M/s Baba Mahakal Enterprises, West Bengal, to the appellant, M/s A H Traders, Lucknow. The consignment was accompanied by a tax invoice bearing No. BME/86/2025-26 dated 13.08.2025, along with the relevant transport documents and e-way bill particulars.

1.3. During the course of interception and verification, the proper officer examined the documents accompanying the goods and noticed discrepancies relating to the address and particulars of the appellant. It was observed that the address mentioned in the invoice and transport documents differed from the registered principal place of business of the appellant.

1.4. On the basis of the aforesaid discrepancies, the proper officer initiated proceedings under Section 129 of the CGST/UPGST Act, 2017. The goods were detained, and a notice in Form GST MOV-07 was issued to the appellant, calling upon it to explain the discrepancies noticed during the course of inspection and to comply with the applicable statutory requirements.

1.5. Subsequently, the proper officer passed Order No. ZD090825189677E dated 19.08.2025 in Form GST MOV-09, imposing a penalty of Rs.1,07,730/- under Section 129(3) of the CGST/UPGST Act, 2017, read with Section 20 of the IGST Act, 2017. The penalty was imposed on the basis of the alleged contravention noticed during the transportation of the goods.

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1.6. Being aggrieved by the aforesaid order, the appellant preferred a first appeal before the Additional Commissioner, Grade-II (Appeal), State Tax, Kanpur, challenging the legality and propriety of the penalty imposed by the proper officer. The appellant contested the proceedings on the ground that the goods were accompanied by the relevant tax invoice and transport documents and that the discrepancies relating to the address and particulars did not establish any deliberate contravention or intention to evade tax.

1.7. The First Appellate Authority, after considering the matter, passed Order-in-Appeal No. AD091025006168B dated 26.11.2025, rejecting the appeal filed by the appellant and upholding the penalty imposed by the proper officer. The First Appellate Authority relied upon the discrepancies noticed during inspection and the findings recorded in the original proceedings while sustaining the penalty.

1.8. Aggrieved by the rejection of the first appeal, the appellant has preferred the present second appeal, challenging the findings recorded in the impugned Order-in-Appeal. The appellant has contended that the department failed to establish the alleged contravention through sufficient and reliable evidence and that the penalty imposed was not legally sustainable in the facts and circumstances of the case.

2. Questions of Law

The following questions of law arise for consideration in the present appeal:

2.1. Whether the penalty imposed under Section 129(3) of the CGST/UPGST Act, 2017, read with Section 20 of the IGST Act, 2017, is legally sustainable in the absence of sufficient evidence establishing a contravention of the provisions of the Act warranting such penalty.

2.2. Whether discrepancies relating to the address and other particulars of the appellant, by themselves, are sufficient to establish an intention to evade tax and justify the imposition of penalty under Section 129 of the Act.

2.3. Whether the First Appellate Authority was justified in rejecting the appeal without adequately examining the documents and explanations furnished by the appellant and the evidence relied upon by the department.

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2.4. Whether the impugned orders are sustainable in law when the department has failed to establish, through cogent and reliable evidence, the alleged contravention warranting the imposition of penalty.

3. Grounds of Appeal

3.1. The appellant stated that the impugned Order-in-Appeal passed by the First Appellate Authority is contrary to the facts and circumstances of the case, the material available on record and the applicable provisions of the CGST/UPGST Act, 2017. The appellant contended that the First Appellate Authority failed to properly appreciate the nature of the transaction and the documents accompanying the goods and erroneously upheld the penalty imposed by the proper officer.

3.2. The appellant stated that the goods in question, namely arecanuts weighing 3,990 kg, were being transported under a valid tax invoice issued by M/s Baba Mahakal Enterprises, West Bengal, in favour of the appellant. The appellant contended that the consignment was accompanied by the relevant invoice and transport documents (E way bill no. 881565147250) and that the movement of goods was undertaken in the ordinary course of business. It was further submitted that the genuineness of the transaction could not be doubted merely on the basis of discrepancies relating to the address and particulars of the appellant.

3.3. The appellant stated that the discrepancies pointed out by the proper officer primarily related to the difference between the address mentioned in the invoice and the registered principal place of business of the appellant. It was contended that such differences in address and business particulars, in the absence of any independent evidence establishing a deliberate violation of the statutory provisions, could not be treated as sufficient grounds for imposing a penalty under Section 129 of the Act.

3.4. The appellant stated that the proper officer had failed to establish that the goods were being transported in contravention of the provisions of the Act with an intention to evade payment of tax. It was contended that the department had not produced any cogent or reliable evidence demonstrating that the transaction was fictitious, that the goods were being transported without valid documents, or that the appellant had deliberately suppressed any material fact with the object of evading tax.

3.5. The appellant stated that the proper officer had proceeded to impose the penalty merely on the basis of discrepancies noticed during the course of interception without adequately

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examining the explanation and documents furnished by the appellant. It was contended that the statutory requirements for sustaining the penalty had not been established and that the impugned action was based on assumptions rather than conclusive evidence of the alleged contravention.

3.6. The appellant stated that the First Appellate Authority failed to independently and comprehensively examine the facts, documentary evidence and explanations submitted during the first appellate proceedings. It was contended that the First Appellate Authority mechanically upheld the penalty imposed by the proper officer without adequately addressing the specific grounds raised by the appellant and without establishing how the discrepancies noticed during inspection warranted the imposition of penalty under Section 129(3) of the Act.

3.7. The appellant stated that the impugned Order-in-Appeal is not sustainable in law, as the department failed to establish the essential ingredients of the alleged contravention through sufficient and reliable evidence. It was contended that the penalty imposed was disproportionate to the nature of the discrepancies alleged and that the proceedings were liable to be set aside in the absence of adequate material establishing the alleged violation.

3.8. The appellant further stated that the impugned order suffers from errors in the appreciation of facts and application of law and that the findings recorded by the First Appellate Authority are not supported by sufficient material on record. The appellant accordingly prayed that the impugned Order-in-Appeal dated 26.11.2025 and the consequential penalty order dated 19.08.2025 be set aside.

3.9. In view of the foregoing grounds, the appellant prayed that the present second appeal be allowed, the penalty of Rs.1,07,730/- imposed under Section 129(3) of the CGST/UPGST Act, 2017, read with Section 20 of the IGST Act, 2017, be quashed, and consequential relief be granted in accordance with law.

4. Submissions of the Appellant

4.1. The appellant submitted that the goods in question, namely arecanuts weighing 3,990 kg, were being transported under a valid tax invoice issued by M/s Baba Mahakal Enterprises, West Bengal, in favour of the appellant. The appellant contended that the movement of goods was supported by the relevant invoice and transport documents (E way bill no. 881565147250) and that the transaction was a genuine commercial transaction.

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4.2. The appellant submitted that the discrepancies pointed out by the proper officer primarily related to the address and particulars recorded in the GST registration and other documents. It was contended that such discrepancies, without any independent evidence of suppression or deliberate misrepresentation, could not be treated as sufficient proof of an intention to evade tax.

4.3. The appellant further submitted that the proper officer had failed to establish any material discrepancy in the identity of the goods or any conclusive evidence demonstrating that the goods were being transported in violation of the provisions of the Act. The appellant contended that the penalty had been imposed without establishing the essential facts necessary to sustain the proceedings under Section 129 of the Act.

4.4. The appellant also submitted that the First Appellate Authority had failed to examine the case in its proper factual and legal perspective and had rejected the appeal without adequately addressing the explanations and documentary evidence furnished by the appellant. It was argued that the impugned orders were liable to be set aside for want of sufficient evidence supporting the alleged contravention.

4.5. Accordingly, the appellant prayed that the second appeal be allowed, the impugned Order-in-Appeal dated 26.11.2025 and the consequential penalty order dated 19.08.2025 be set aside, and the appellant be granted appropriate consequential relief in accordance with law.

5. Submissions of the Respondent

5.1. The respondent (department) opposed the grounds of appeal and submitted that the order passed by the proper officer under Section 129(3) of the CGST/UPGST Act, 2017, read with Section 20 of the IGST Act, 2017, was legal and proper. It was contended that the goods had been intercepted during transit and that discrepancies had been noticed in the documents and particulars relating to the appellant.

5.2. The respondent submitted that the appellant had failed to establish that the discrepancies noticed during the inspection were merely procedural or clerical in nature. It was argued that the proper officer had duly examined the documents accompanying the goods and had initiated proceedings in accordance with the applicable provisions of law.

5.3. The respondent further submitted that the First Appellate Authority had considered the facts and circumstances of the case and had rightly rejected the appeal filed by the appellant. It

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was contended that the penalty imposed by the proper officer was justified in view of the discrepancies noticed during the course of interception and verification of the goods.

5.4. The respondent mentioned that the appellant had not furnished sufficient material to establish that the impugned orders suffered from any legal infirmity. Accordingly, the respondent prayed that the second appeal be dismissed and the impugned Order-in-Appeal, along with the penalty imposed under Section 129(3) of the Act, be upheld.

6. Findings and Discussion

6.1. We have carefully examined the impugned Order-in-Appeal dated 26.11.2025, the order passed by the proper officer in Form GST MOV-07 dated 19.08.2025, the grounds of appeal, the submissions of the appellant and the submissions of the respondent department, along with the material available on record.

6.2 The principal issue for determination is whether the penalty imposed under Section 129(3) of the CGST/UPGST Act, 2017, read with Section 20 of the IGST Act, 2017, is sustainable in the facts and circumstances of the present case.

6.3. It is evident from the record that the goods in question were arecanuts weighing 3,990 kg, transported in vehicle No. UP65H9147, under a tax invoice and E way Bill . issued by M/s Baba Mahakal Enterprises in favour of the appellant. The penalty of Rs.1,07,730/- was imposed on the basis of discrepancies noticed during the course of interception after verification of the documents.

6.4 The appellant has contended that the discrepancies were primarily related to the address and particulars of the registered business place but the goods were accompanied by the relevant documents. The respondent department, on the other hand, has relied upon the discrepancies noticed during inspection to justify the penalty.

6.5. Upon examination of the material available on record, it is observed that the department was required to establish the alleged contravention through relevant and reliable evidence. The mere existence of a discrepancy in the address or other particulars, without adequate supporting evidence, cannot automatically be treated as conclusive proof of an intention to evade tax.In the present case, the respondent department has not brought on record sufficient independent evidence to establish that the appellant had deliberately transported the goods in contravention

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of the provisions of the Act with an intention to evade payment of tax. The allegation of contravention, therefore, remains insufficiently substantiated.

6.6. It is further observed that the First Appellate Authority, while rejecting the appeal, was required to examine the documentary evidence and the explanation furnished by the appellant in a comprehensive manner. However, the impugned order does not adequately establish how the discrepancies noticed during inspection constituted a legally and factually sustainable ground for imposing the penalty in the absence of sufficient evidence to evade tax. It would also be fair to say that no discrepancies found in the quantity and quality of the goods. The findings recorded in the impugned order are, therefore, not supported by adequate material establishing the essential basis for sustaining the penalty.

6.7. It is a settled principle that the imposition of a penalty must be supported by the relevant statutory provisions and the facts established in the particular case. The proceedings under Section 129 of the Act cannot be sustained merely on the basis of assumptions or unsubstantiated technical allegations.

6.8 We find that the authorities (Proper Officer and Appellate Authority) failed to appreciate the fact that the alleged discrepancy was prurely technical/procedural in nature. There was no *mens reaor* intent to evade tax on the part of the Appellate. As per settled judicial precedents, penality should not be imposed where there is no less of revenue or intent to defraud the state. As in the case of ***M/s Hawkins Cookers Limited vs. State of U.P. and Others (Writ Tax No. 739 of 2020),*** *decided on February 12, 2024 the Hon'ble Allahabad High Court.*

The Hon'ble Court held as below:

It is palpably clear that the goods were accompanied with the relevant invoces, bilty documents and the e-way bills. It is to be noted that the invoices and bilty documents also certain the correct address of the destination and only four out of eight of the e-way bills had the incorrect address. Even this incorrect address was the registered office of the petitioner. In such a case, no presumption to evade tax arises at all. The mere technical error committed by the petitioner cannot result in imposition of such harsh penalty upon the petitioner. As quoted in the **Arthashastra by Chanakya** that '*Government should collect taxes like a honeybee collects honey from a flower without disturbing its petals'.*

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6.9 Thus, in the present case, the department has failed to establish, through cogent and reliable evidence, that the discrepancies noticed during the interception amounted to a contravention warranting the penalty imposed upon the appellant.

6.10 Accordingly, we find that the penalty imposed by the proper officer and sustained by the First Appellate Authority is not supported by sufficient evidence on record and is liable to be set aside.

6.11. In view of the foregoing discussion, the grounds raised by the appellant are found to be acceptable to the extent that the department has failed to establish the alleged contravention through sufficient and reliable evidence regarding evasion of tax . The impugned Order-in-Appeal dated 26.11.2025, is therefore liable to be set aside.

7. Order

7.1. In view of the facts, circumstances, submissions of the parties and the findings recorded hereinabove, the present appeal filed by M/s A H Traders (Abdul Hai), GSTIN 09ADCPH1568B1ZX, is hereby allowed.

7.2. The Order-in-Appeal No. AD091025006168B dated 26.11.2025, passed by the Additional Commissioner, Grade-II (Appeal), State Tax, Kanpur, is hereby set aside.

7.3. If the amount has been deposited by the Appellant, the amount so deposited shall be dealt with in accordance with law, subject to verification of the relevant payment records and compliance with the applicable statutory procedure.

29.9.26
(Santosh Kumar Srivastava)

29/9/26
(Arvind Kumar)

Dated: 29.09.2026

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