GSTAT

State Bench Ghaziabad

Division Bench Court No. Court I

Filing No 2026109301000029

M/S JUBILANT AGRI AND CONSUMER PRODUCTS LIMITED **.....Appellant**

Versus

SONE LAL DOHREY, ADDITIONAL COMMISSIONER GRADE-II APPEALS, GAUTAM BUDDHA NAGAR NOIDA UTTAR PRADESH & ORS. **.....Respondent**

Quorum

Hon'ble Sanjay Kumar Chandhariyavi, Member(Judicial)
Hon'ble Sungita Sharma, Member (Technical)

Counsel for Appellant
GAYATRI SRIVASTAVA

Counsel for Respondent

ORDER

Appeal and material facts

1. This appeal is against the Order-in-Appeal dated 12 December 2024 in Appeal No. 557/24, which upheld Order-in-Original No. ZD090524324094H dated 27 May 2024. The original authority imposed a penalty of Rs. 32,380, comprising CGST of Rs. 16,190 and SGST of Rs. 16,190, under Section 129. The only substantive breach alleged was that the vehicle details were not entered in Part B of two e-way bills. For the reasons given below, we allow the appeal.
2. The penalty is below Rs. 50,000. Section 112(2) gives the Tribunal discretion to refuse admission of an appeal below the specified monetary limit. It does not completely bar such an appeal. This appeal raises a question about an express exception in the Rules governing the movement of goods and the legality of the penalty. We therefore exercise

our discretion to hear and decide it on merits.

3. The Appellant is a registered taxpayer engaged in manufacturing and supplying adhesives, wood finishes, thinners, fertilizers and other products. It has a manufacturing unit at Bhartiagram, Amroha, and an additional place of business at Khasra No. 468, Village Bairangpur, Nai Basti, Tehsil Dadri, District Gautam Buddha Nagar, Uttar Pradesh. We refer to this additional place of business as the Dadri Depot.

4. On 21 May 2024, goods were sent from the Dadri Depot under four tax invoices with a total value of Rs. 5,67,560. This dispute concerns Invoice No. UPD240003682 for Rs. 51,336 and Invoice No. UPD240003683 for Rs. 54,903, issued for supplies to M/s Amit Plywood, Saharanpur. The related electronic reference numbers are 451443492319 and 451443492321.

5. The Appellant states that vehicle No. UP14NT-4793, operated through Parnami Logistics, was carrying the goods from the Dadri Depot to the transporter's local premises at Rajkamal Warehouse, Ghaziabad. The distance was less than 30 km. This was the first stage of the journey, during which the consignments were to be brought together before being sent to Saharanpur. LR No. 7313 dated 21 May 2024 accompanied the goods.

6. The vehicle was intercepted near Sirsa Cut, Greater Noida, at 7:40 a.m. on 22 May 2024. According to the facts placed before us, the quantity, description and value of the goods matched the accompanying invoices, e-invoices and transport documents. The show cause notice dated 22 May 2024 alleged that the vehicle number was missing from Part B of the two electronic documents. The adjudicating authority imposed the penalty. The first appellate authority upheld it on the ground that an e-way bill without Part B was invalid for movement of goods.

7. The appeal was listed before this Tribunal on 6 August, 21 August and 8 September 2026. Detailed submissions were then filed, and a further hearing took place on 22 September 2026. The Appellant gave its written submissions to the Department, and the Department gave its cross-objection to the Appellant. Both sides were heard. The matter was fixed for final order on 1 October 2026.

8. The Appellant mainly relies on the third proviso to Rule 138(3). It submits that the initial journey to the transporter's premises was within the same State and within 50 km. It also relies on the fact that the goods matched the documents and that there was no material showing tax evasion. The Department argues that Part B is mandatory and that goods cannot be moved under an incomplete e-way bill. The Appellant has also questioned the orders on grounds relating to DIN, authentication and electronic uploading of the required summaries.

Points for determination

9. The questions for decision are: (i) whether the initial journey falls within the third proviso to Rule 138(3); (ii) whether leaving Part B unfilled during that journey is a breach attracting Section 129; (iii) how mens rea and the Supreme Court decisions on civil and criminal penalties apply to this dispute; and (iv) what relief should be granted.

Statutory framework and the Part B exception

10. We apply the substantive provisions governing the movement of goods on 21–22 May 2024. References to the CGST Act and Rules are to be read with the corresponding provisions of the UPGST Act and Rules for the State component of the disputed demand.
11. Section 68 permits verification of the prescribed documents and inspection of goods in transit. Rule 138 governs the furnishing of consignment information before movement and the generation of an e-way bill. Rule 138A requires the goods to be accompanied by the applicable invoice, bill of supply or delivery challan, and the e-way bill or its electronic number in the prescribed manner. These provisions must be read together with the exceptions stated in Rule 138.
12. The third proviso to Rule 138(3), directly relied upon by the Appellant, provides:
"Provided also that where the goods are transported for a distance of upto fifty kilometers within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the recipient, or as the case may be, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01".

13. This proviso allows vehicle details to be left unfilled during a specified initial stage of transport. It applies only when the conditions concerning the consignor's premises, the transporter's receiving premises, further transportation, movement within the same State and distance are met. It does not exempt every journey of less than 50 km. Nor does it remove the applicable requirements concerning consignment information and accompanying invoices.
14. Explanation 2 to Rule 138(3) states the general requirement of Part B for valid road movement, but expressly preserves the exceptions in the third proviso to sub-rule (3) and the proviso to sub-rule (5). The Department's argument that every road movement without Part B is invalid overlooks these express exceptions.
15. The proviso to Rule 138(5) deals with a different situation. It concerns the final journey, within the prescribed distance, from the transporter's premises to the consignee's premises, when updating the vehicle details may not be required. The Appellant's case concerns the initial journey under Rule 138(3). The two provisions must be kept separate to identify the correct basis for relief.
16. The consignee's address at Saharanpur shows the final destination of the supply. It does not, by itself, show that the intercepted vehicle had already started the onward journey from the transporter's consolidation premises to Saharanpur. For the third proviso, the relevant distance is the initial journey from the consignor's premises to the transporter's premises. The total distance to the final consignee cannot replace that distance.
17. Section 129(1) applies where goods are transported or stored in transit in breach of the Act or Rules. The relevant portions of Section 129, as applicable on 21–22 May 2024, are quoted below.

"129. Detention, seizure and release of goods and conveyances in transit.—

(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,—

(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;

…

(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).

(4) No penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard."

Thus, where the owner comes forward, clause (a) prescribes a penalty of 200 per cent of the tax payable on taxable goods. Sub-sections (3) and (4) require notice, determination and a hearing. But the rate of penalty becomes relevant only after an actual breach of the Act or Rules has been established.

18. An omission expressly permitted by the Rules cannot be treated as a breach of those Rules. The opening words of Section 129, which give it overriding effect, do not remove the exceptions in the Rules against which the alleged breach must be examined.

Application to the movement in this appeal

19. The facts recorded above identify the Dadri Depot as the consignor's additional place of business and Rajkamal Warehouse at Ghaziabad as the transporter's receiving premises. The purpose of the journey was to bring the consignments together before onward dispatch. The stated distance was less than 30 km, and both premises were in Uttar Pradesh. The Department's response, as recorded in the proceedings, is that Part B is always mandatory. The factual account before us records no contrary finding that disproves this initial journey.
20. The party claiming the benefit of the proviso must prove that its conditions are met. Merely saying that the journey was short or that there was no loss of tax would not be enough. Here, the recorded facts about the originating depot, the identified transporter's warehouse and the initial journey for consolidation bring the movement within the third proviso to Rule 138(3). The fact that the final consignee was farther away does not disprove these facts.

21. The matching goods, invoices and transport documents further support the identity and traceability of the consignment. An invoice does not always replace Part B. Nor does an electronic reference necessarily amount to a completed e-way bill for every later journey. Our finding is confined to the initial journey for which the Rule permits vehicle details to remain unfilled.
22. The first appellate authority applied the general requirement without considering its express exception. Once the proviso applies, the only alleged defect is no longer a breach. The penalty therefore has no legal basis. Any later movement beyond this initial journey remains subject to the requirements applicable to that movement.

Mens rea in general law and civil fiscal penalties

23. Mens rea means the mental element required for a particular offence, such as intention or knowledge. In criminal law, punishable conduct is generally linked to the mental element required for the offence. Whether such a mental element is necessary, and to what extent, depends on the wording, purpose and scheme of the law. The use of the word “penalty” alone does not answer that question.
24. In Nathulal v. State of Madhya Pradesh, AIR 1966 SC 43, decided on 22 March 1965, the Supreme Court recognised that mens rea is generally presumed to be required for a criminal offence, unless excluded expressly or by necessary implication. This is the starting point in criminal law. The decision does not mean that guilty intention must be separately proved in every civil regulatory proceeding.
25. In Hindustan Steel Ltd. v. State of Orissa, (1969) 2 SCC 627, the Supreme Court held that discretion to impose a penalty must be exercised judicially. A technical or minor breach, or an honest belief about the legal obligation, is relevant to that exercise. This principle must be applied in the context of the particular penalty provision. It cannot override a different or later law that makes civil liability mandatory.
26. In Chairman, SEBI v. Shriram Mutual Fund, (2006) 5 SCC 361, the Supreme Court held that mens rea was not required for the civil statutory breaches before it. Once the prescribed breach was proved, the absence of guilty intention did not remove the liability. The Court also explained why Hindustan Steel did not govern that situation.

27. Guljag Industries v. Commercial Taxes Officer, (2007) 7 SCC 269, particularly paragraphs 22 and 27, is relevant to goods in transit. While interpreting Section 78 of the Rajasthan Sales Tax Act, the Supreme Court held that mens rea was not an essential element of the civil breach relating to prescribed transit documents. Thus, good faith does not always excuse failure to comply with a mandatory requirement concerning documents.

28. These decisions require two separate questions to be answered. First, was a statutory obligation breached? Second, if there was a breach, does the particular provision require a mental element? This appeal succeeds on the first question. Even a strict civil penalty cannot be imposed for conduct expressly permitted by the governing Rule. Guljag Industries therefore does not justify a penalty where the omission falls within an applicable statutory exception.

Mens rea within the GST scheme

29. GST law provides for different kinds of liability. Sections 73 and 74, for the periods to which they apply, show that fraud, wilful misstatement and suppression to evade tax are expressly relevant under Section 74. Certain grounds in Section 130 also expressly require an intention to evade tax. These words must be given effect where they appear. They cannot automatically be read into every other provision.

30. Section 132 deals with prosecution for specified offences. Section 135 presumes a culpable mental state in a prosecution for an offence that requires such a state, while allowing the defence provided by that section. This presumption applies to prosecution. It does not allow an adjudicating officer in an ordinary Section 129 proceeding to presume an intention to evade tax merely because a field in an electronic document is blank.

31. Section 129 does not expressly require an intention to evade tax in the same terms as the relevant clauses of Section 130. We therefore do not hold that every penalty under Section 129 must fail whenever fraudulent intention is not separately proved. At the same time, the officer must identify an actual breach, consider the explanation and documents, and apply the relevant judicial decisions to the proved facts.

32. Section 126 deals with minor breaches, mistakes in documents that can easily be corrected, proportionate penalties and the right to a hearing. It reads as follows:

“126. General disciplines related to penalty.—

(1) No officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.

Explanation.—For the purpose of this sub-section,—

(a) a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees;

(b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.

(2) The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.

(3) No penalty shall be imposed on any person without giving him an opportunity of being heard.

(4) The officer under this Act shall while imposing penalty in an order for a breach of any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.

(5) When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this Act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.

(6) The provisions of this section shall not apply in such cases where the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage."

However, sub-section (6) excludes cases where the penalty is a fixed amount or a fixed percentage. This limit is directly relevant because Section 129(1)(a) fixes the penalty at 200 per cent. We are not using Section 126 as a general power to waive or reduce that penalty. We hold that no liability arose because Rule 138(3) permitted the only omission alleged in this case.

Supreme Court and jurisdictional High Court decisions on e way bills

33. In Assistant Commissioner (ST) v. Satyam Shivam Papers Pvt. Ltd., (2022) 14 SCC 157, order dated 12 January 2022 in SLP (C) No. 21132 of 2021, the Supreme Court rejected the Revenue's challenge in a case involving an expired e-way bill. It approved the finding that the inference of tax evasion had no factual basis, considering the explanation for delayed delivery and the circumstances beyond the taxpayer's control. The Court also increased the costs.

34. Satyam Shivam Papers concerned expiry of an e-way bill, not omission of Part B under the 50 km proviso. We rely on it for the need to examine the explanation and actual circumstances before inferring evasion. It does not grant a general exemption from all e-way bill requirements or finally decide how Section 129 applies to every possible breach.

35. In M/s Roli Enterprises v. State of U.P., Writ Tax No. 937 of 2022, decided on 16 January 2024, neutral citation 2024:AHC:7495, the Allahabad High Court set aside a penalty for leaving Part B unfilled. The goods matched the invoice, the transport details were available in the accompanying documents, and the Department could not point to an intention to evade tax. On those facts, the Court treated the defect as technical.

36. In M/s RS Industrial Solutions v. Additional Commissioner Grade 2, Writ Tax No. 684 of 2024, decided on 2 May 2024, neutral citation 2024:AHC:78978, the Allahabad High Court followed Roli Enterprises. The invoice contained the vehicle details. The omission was technical, and there was no intention to evade tax. The Court set aside both the original and appellate penalty orders.

37. These decisions of the jurisdictional High Court support the need to examine the actual documents and circumstances. Their factual findings, including the availability of vehicle details in other documents, cannot be assumed in another case. Our main finding rests on the express exception for the initial journey and the facts recorded in this appeal. These decisions provide further support against automatically inferring evasion from an unfilled Part B.

Circular and remaining procedural grounds

38. Paragraph 3 of CBIC Circular No. 64/38/2018-GST dated 14 September 2018 recognises the prescribed short-distance exception for movement to or from a transporter's place of business. Paragraphs 5 and 6 deal separately with specified minor errors and the limited penalties for them. An error in one or two characters of a vehicle number is different from leaving Part B completely unfilled. The circular does not treat every blank Part B as one of the listed minor errors.

39. The circular confirms the difference between a permitted omission and a defect in documents. Our decision rests on the Rule itself. It does not depend on treating the CBIC circular as independently binding on every State officer. Since the alleged omission does not amount to a breach, there is no reason to impose a general penalty under Section 125 merely because this appeal is being allowed.

40. The Appellant has also raised objections about DIN, signature or electronic authentication, and uploading summaries under Rule 142. The CBIC DIN circular relied on by the Appellant deals with communications issued by officers under the Board. We cannot assume that it applies to these State proceedings without examining the relevant State directions and how the communications were issued. Similarly, an unsigned copy does not, by itself, prove that the original electronic order was not authenticated.

41. The notice summary and the order summary are different documents. FORM GST DRC-01 is the notice summary, while FORM GST DRC-07 is the order summary under the relevant provisions of Rule 142. Since the appeal succeeds on the substantive statutory ground, we need not decide these additional objections. We make no finding upholding or invalidating the orders on those separate procedural grounds.

Decision and operative directions

42. On the facts recorded above, we hold that the initial movement within Uttar Pradesh from the Dadri Depot to the transporter's premises for further transportation falls within the third proviso to Rule 138(3), read with Explanation 2 to that sub-rule. Leaving the vehicle details unfilled in Part B during that journey did not amount to the breach alleged in the notice. The penalty cannot be upheld by applying the general Part B requirement without its exception.

43. Accordingly, under Section 113 of the CGST Act read with the corresponding provisions of the UPGST Act, we allow the appeal. The Order-in-Appeal dated 12 December 2024 in Appeal No. 557/24 and Order-in-Original No. ZD090524324094H dated 27 May 2024 are set aside. The penalty of Rs. 32,380, comprising CGST of Rs. 16,190 and SGST of Rs. 16,190, is cancelled.

44. Any amount paid or recovered towards this penalty shall be refunded in accordance with the applicable law. The merits decided by this order shall not be reopened. Any statutory appeal pre-deposit that becomes refundable because of this order shall be returned with interest under Section 115. Interest on any other refundable amount shall be governed by the applicable statutory provisions. Any security or bank guarantee furnished solely for this penalty shall be released.

45. The jurisdictional proper officer shall give effect to this order and correct the corresponding demand entries and electronic summaries. The Department's cross-objection is rejected to the extent that it seeks to uphold the penalty on the ground decided in this order. Any pending applications relating to this demand are disposed of. There is no order as to costs.

Registrar is directed to supply a copy of this order to the Respondent .

Order pronounced in the open Tribunal proceeding.

(Dr. Sanjay Kumar Chandhariyavi)

(Sungita Sharma)

Dated: 01.10.2026