GSTAT

State Bench Ghaziabad

Division Bench Court No. Court I

Filing No 2026109301000030

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

Versus

JITENDRA KUMAR BHARTI, ASSISTANT COMMISSIONER, SECTOR 5, MOBILE SQUAD-5, STATE TAX, G.B. NAGAR- U.P & 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

Brief facts of the case

1. The Appellant, M/s Jubilant Agri and Consumer Products Limited, manufactures and supplies consumer products, including adhesives, wood finishes and thinners. On 12.02.2024, it dispatched goods from its additional place of business at Dadri, Ghaziabad, Uttar Pradesh, to M/s Trade Victor, Jodhpur, Rajasthan, in vehicle No. UP81ET9127. The goods were accompanied by tax invoices and the transporter's bilty. Applicable IGST was charged on the inter-State supply.
2. At about 4:40 PM on the same day, Respondent No. 1, the Assistant Commissioner, Mobile Squad-5, G.B. Nagar, intercepted the vehicle at Surajpur, Greater Noida, for verification. The description,

quality and quantity of the goods matched the accompanying documents. However, two tax invoices, UPD230021419 and UPD230021420, and their corresponding e-way bills showed the buyer's address as "Jain Transport Group, M.G.H. Road, Jodhpur, Rajasthan - 342003". The updated GST-registered address was "G-2, Shastri Nagar, Jodhpur, Rajasthan - 342003".

3. Proceedings under Section 129(3) were initiated on the ground that the address discrepancy violated Section 31, Rule 46 and Rule 138 of the CGST/UPGST Rules. A show cause notice dated 16.02.2024 was followed by the Order-in-Original dated 17.02.2024, imposing an IGST penalty of Rs. 1,80,254/-. The Appellant challenged that order before the First Appellate Authority. Respondent No. 2, the Additional Commissioner Grade-II, Appeals-III, Noida, dismissed the appeal by Order-in-Appeal No. ZD091024405657E dated 24.10.2024. The authority held that Section 129 imposes strict liability and does not require proof of an intention to evade tax.

Grounds of appeal

4. The Appellant has challenged the Order-in-Appeal before this Tribunal on the following grounds:

5. a) The Appellant submits that the address error was clerical and unintentional. The address shown in the invoices, M.G.H. Road, Jodhpur - 342003, was the buyer's registered place of business under the earlier VAT regime, bearing Registration No. 08202704075. This address and the GST-registered address at G-2, Shastri Nagar, Jodhpur - 342003 belong to the same buyer, Trade Victor, Jodhpur. Both have the same PIN code, 342003, and are within 3 kilometres of each other. The Appellant relies on paragraph 5(c) of CBIC Circular No. 64/38/2018-GST dated 14.09.2018. It deals with errors in the consignee's address where

the locality and other consignee details are correct. The Appellant relies on this clarification to submit that the discrepancy was technical.

6. b) The Appellant contends that mens rea, or an intention to evade tax, is essential for imposing a penalty under Section 129. It submits that a clerical or technical error in the shipping or consignee address cannot justify a penalty when the consignee's identity and the description and value of the goods are undisputed.

7. c) The Appellant also submits that the show cause notice and the Order-in-Original are vague and brief, give no reasons, and contain no allegation of tax evasion. It further submits that the orders lack the mandatory Document Identification Number (DIN) and digital signature.

Hearing and submissions

5. The case was listed with defects on 06.08.2026. The Appellant was given time to remove them by the next hearing on 21.08.2026. Both sides appeared at that hearing. The Department's Authorised Representatives reported a technical problem with their mapping in the system, which was to be resolved by the next hearing on 08.09.2026. Both sides advanced final arguments at that hearing, and the matter was fixed for filing detailed written arguments on 22.09.2026. Shri Mohit Pugalia, Authorised Representative, appeared for the Appellant. Shri Sanjay Kumar Arya, Shri Shanti Shekhar Singh, Shri Jitendra Pratap Agrahari and Smt. Vibha Singh, officers of State GST, appeared for the Department. The Appellant's counsel stated that the written submissions had been uploaded on the GSTAT portal and supplied to the Department. The Department's Authorised Representatives stated that the cross-objection had been supplied to the Appellant. We heard the final

arguments of both sides.

6. The Appellant's counsel submitted that the transaction was transparent and supported by proper tax invoices, valid e-way bills and bilty documents. He stated that the full IGST had been paid to the Government. According to him, the ERP system had automatically filled in or retained the former VAT address of Trade Victor, a long-standing buyer. There was no difference in the quantity, quality or value of the goods. There was also no allegation of clandestine removal or unloading at an unauthorised location. Relying on settled law, he submitted that a minor typing error, without any intention to evade tax, could not attract a penalty of 200 per cent under Section 129.

7. The Department's Authorised Representative supported the challenged orders. He submitted that the buyer had not declared "Jain Transport Group, MGH Road" as either its principal or additional place of business on the GST portal. He therefore contended that the goods were being transported to a location that was not bona fide, in violation of Section 129. The Department also relied on decisions holding that Section 129 imposes strict statutory liability.

8. In reply, the Appellant's counsel stated that VAT Form-03 recorded M.G.H. Road, Jodhpur as an established branch address of Trade Victor. The words "Jain Transport Group" referred only to the transporter's booking godown in the same locality. He relied on M/s Hawkins Cookers Ltd. v. State of U.P. [2024 (2) TMI 760-All], M/s Zhuzoor Infratech Pvt. Ltd. v. Addl. Commr. [2025 (2) TMI 791-All], S/S Meghdoot Enterprises v. Addl. Commr. [2024 (3) TMI 1096-All], and Ms. Sangeeta Jain v. UOI [2024 (4) TMI 1079-All]. He submitted that the Allahabad High Court had repeatedly held that a technical address discrepancy, without mens rea, cannot

sustain a penalty under Section 129 where the goods match the tax invoice and e-way bill. He also relied on CBIC Circular No. 64/38/2018-GST, under which qualifying minor errors receive the limited treatment set out in paragraphs 5 and 6 instead of proceedings under Section 129. For an inter-State consignment, paragraph 6 specifies a penalty of Rs. 1,000/- under the IGST Act, as discussed below.

Questions for determination

9. We must decide whether, on these facts, the use of the consignee's former address in two invoices and the corresponding e-way bills justifies the penalty of Rs. 1,80,254/- under Section 129. We must also consider the effect of the absence of mens rea and the relief available under the law and applicable judicial principles.

Statutory framework applicable to the movement

10. The goods were transported on 12.02.2024. The applicable Section 129 is therefore the provision in force on that date, after the amendments effective from 01.01.2022. The supply was inter-State, and the penalty was imposed under the IGST Act. Section 20 of that Act applies the CGST provisions on invoices, inspection, detention, appeals and penalties, with the necessary changes. The corresponding UPGST provisions are also relevant to the action taken by the State authorities. This appeal concerns the legality of the transit penalty, not reassessment of the supply itself.

11. Section 31, read with Rule 46, requires a tax invoice containing the prescribed details. Rule 46(d) requires the registered recipient's name, address and GSTIN. Clauses (n) and (o) deal with the place of supply in an inter-State transaction and the delivery address

where it differs. Section 68, read with Rules 138 and 138A, requires the prescribed documents during transit and their production for verification. These requirements must be followed, and suppliers must keep customer details up to date. The nature of an error and its legal consequence must, however, be examined separately.

12. Section 129(1) applies to goods transported or stored in transit in violation of the Act or Rules. Under clause (a), where the owner comes forward, the penalty for taxable goods is 200 per cent of the tax payable. Section 129(3) requires a notice specifying the penalty, followed by an order. Subsection (4) requires an opportunity of hearing. After the amendment, this penalty is separate from the tax liability on the supply. Its validity must be examined under the provision that authorises it. Payment of tax on the supply does not, by itself, remove every transit penalty.

13. Section 125 provides for a residual penalty. Section 126 protects qualifying minor breaches and documentary mistakes that can readily be corrected and involve neither fraud nor gross negligence. It also requires proportionality and a fair process. Its Explanation deals with the Rs. 5,000 tax threshold and errors apparent from the record. However, subsection (6) excludes penalties fixed as a sum or percentage. Section 126 therefore does not give us an unrestricted power to reduce a valid penalty under Section 129. We must first decide whether the discrepancy attracts Section 129 at all.

Mens rea and the nature of fiscal liability

14. Mens rea means the guilty state of mind that the law requires for a prohibited act. The principle that punishment should reflect blameworthiness explains why an honest mistake ordinarily differs from deliberate deception. It also prevents every defect in a document from being treated as dishonesty. This principle must,

however, be applied within the terms of the statute. Tax laws may impose civil obligations without requiring proof of a criminal state of mind, particularly where compliance with objective requirements is necessary for revenue administration.

15. Tax liability ordinarily arises from the taxable event and the charging provision, regardless of the taxpayer's good faith. Interest applies to delayed payment or other defaults specified in the relevant provision. Some civil penalties depend on fault. Others follow a proved statutory breach without separate proof of intent. Criminal prosecution is a separate process. The word "penalty", or the absence of revenue loss, therefore does not settle every case. The relevant provision, its requirements and the facts said to constitute the breach must be identified.

16. The GST law recognises these differences. Sections 73 and 74, applicable to the earlier financial-year regime, distinguish ordinary tax defaults from fraud, wilful misstatement and suppression to evade tax. Some grounds for confiscation under Section 130 expressly require an intention to evade tax. Section 135 provides for a presumption of a culpable mental state in prosecution. It does not create a general presumption against a person in transit adjudication. Section 129 does not expressly require fraudulent intent in every case. Even so, its application to an explained documentary error must follow the binding judicial interpretation.

Supreme Court authorities

17. In Hindustan Steel Ltd. v. State of Orissa, (1969) 2 SCC 627, the Supreme Court held that a penalty should not be imposed mechanically merely because the law permits it. In the context of the statute before it, the Court distinguished deliberate defiance, dishonest conduct and conscious disregard from a technical breach

or an honest belief. The decision supports a reasoned assessment of fault where the applicable law allows it. It does not permit a tribunal to ignore a later law that imposes mandatory civil liability when specified conditions are met.

18. In Union of India v. Dharamendra Textile Processors, (2008) 13 SCC 369, the Supreme Court stated the other applicable principle. Criminal mens rea cannot automatically be read into a civil penalty provision, and a mandatory statutory consequence cannot be set aside by assuming a discretion that the law does not give. Similarly, Guljag Industries v. Commercial Taxes Officer, (2007) 7 SCC 269, concerned mandatory transit declarations under Rajasthan sales-tax law. It recognised civil penalty liability without separate proof of mens rea. The Department's argument on strict liability must therefore be considered. It cannot be rejected merely because the omission was unintentional.

19. These decisions still require the statutory conditions for a penalty to be proved. In Union of India v. Rajasthan Spinning & Weaving Mills, (2009) 13 SCC 448, particularly paragraphs 23 and 24, the Supreme Court explained that the mandatory penalty under Section 11AC applied only when its conditions were met. That case concerned excise law, not Section 129. It nevertheless explains the distinction between deciding whether a penalty provision applies and determining the amount once it applies.

20. The closest Supreme Court authority on GST transit is Assistant Commissioner (ST) v. Satyam Shivam Papers Pvt. Ltd., 2022 SCC OnLine SC 115, order dated 12.01.2022 in SLP (C) No. 21132 of 2021. The Court rejected an inference of tax evasion based only on the expiry of an e-way bill when the explanation and surrounding circumstances did not support that inference. While dismissing the special-leave petition and enhancing costs, the Court expressly

approved the Telangana High Court's reasoning on the facts. This was a reasoned order on those facts. It did not hold that every breach under Section 129 requires criminal mens rea. Its relevance here is that a documentary defect cannot be presumed to establish tax evasion without examining the explanation and evidence.

Jurisdictional High Court decisions

21. In M/s Hawkins Cookers Ltd. v. State of U.P., Writ Tax No. 739 of 2020, decided on 12.02.2024, neutral citation 2024:AHC:24164, paragraphs 8–12, the Allahabad High Court considered an address automatically filled in some e-way bills. It distinguished a complete absence of documents from clerical errors in an otherwise documented movement and set aside the penalty. Where the error was merely clerical, the Court required the Department to establish the basis for alleging intent. There is one factual difference here. In that case, the invoices and bilties showed the correct destination; in this case, the error also appears in two invoices. We apply the principle after considering this difference and do not treat the facts as identical.

22. In M/s Zhuzoor Infratech Pvt. Ltd. v. Additional Commissioner Grade 2, Writ Tax No. 830 of 2024, decided on 14.02.2025, neutral citation 2025:AHC:21395, the shipping address in the e-way bill differed from the invoice because it had been filled in automatically. The goods otherwise matched the documents. The High Court treated the error as technical and quashed the orders. The original order challenged in that case was dated 20.12.2022. The decision thus concerns the period after the amendment and supports examining the nature of an address error even after the 2022 changes. It does not excuse fictitious destinations or generally permit defective invoices.

CBIC clarification and its limits

23. CBIC Circular No. 64/38/2018-GST dated 14.09.2018 was issued under Section 168. Paragraph 5 gives a non-exhaustive list of documentary errors for which proceedings under Section 129 should not be initiated when the required documents accompany the goods. Clause (c) covers an error in the consignee's address where the locality and other consignee details are correct. Paragraph 6 prescribes a penalty of Rs. 500 each under CGST and SGST, or Rs. 1,000 under IGST, per consignment. The total amount applicable to this inter-State movement is therefore not Rs. 500.

24. The two addresses here are M.G.H. Road and G-2, Shastri Nagar. A common PIN code alone does not establish that the locality was correctly stated for clause (c). Earlier VAT registration also does not establish current GST registration of the premises. We therefore do not base the decision entirely on the assumption that clause (c) is satisfied. The circular helps distinguish minor errors from substantive transit violations. Our independent basis is the factual explanation considered in light of the jurisdictional High Court

decisions. We do not presume the existence of any Uttar Pradesh circular adopting the CBIC circular when none has been produced.

Application to the present appeal

25. The discrepancy must be considered together with the other recorded facts. Tax invoices, e-way bills and bilty documents accompanied the goods. Physical verification showed that the description, quality and quantity matched. The buyer was identified as Trade Victor, Jodhpur. The explanation connects the disputed entry to that buyer's former VAT address and to old customer details retained in the ERP system. The Department's recorded objection is that the address was not a declared GST place of business. It does not identify a different purchaser, a fictitious transaction or any actual diversion of the goods.

26. On the facts recorded in the appeal, we accept that the wrong address arose from retention of the former address and was not intended to conceal the consignee. VAT Form-03 supports the historical connection claimed by the Appellant. We do not treat it as a substitute for GST registration. The vehicle was intercepted at Surajpur while proceeding towards Rajasthan. The Department's recorded case does not establish delivery to an undisclosed purchaser, clandestine unloading, repeated use of the same documents or suppression of the consignment's taxable value. The address mismatch alone cannot take the place of such evidence.

27. We have considered that the same mistake appeared in both the invoices and the corresponding e-way bills. Use of the same customer data can explain its repetition. This does not necessarily show separate acts of concealment. On the facts accepted here, the error concerns the address of an identified buyer. Statements by counsel alone would not establish innocence if there were contrary

evidence. Here, however, the recorded physical verification and the supporting documents support the explanation, while the Department's inference rests only on the mismatch.

28. The Appellant also states that IGST was paid. Charging tax in an invoice does not prove that it was later paid, and our conclusion does not assume that the two are the same. Even if tax has been paid, a separately proved transit violation may attract its own penalty. But where the movement is documented and the only proved defect is an explained address error, the absence of evidence showing how tax was being evaded is relevant to deciding whether the stringent transit penalty is justified.

29. The First Appellate Authority treated "strict liability" as a sufficient answer to the explanation. This confuses the rule about intent with the need to prove a breach that attracts the particular penalty. Guljag Industries concerned a material failure to complete the prescribed transit declaration. It does not require every mistake in existing documents to be treated in the same way. Applying Hawkins Cookers and Zhuzoor Infratech to these facts, along with the Supreme Court's approach in Satyam Shivam Papers, we find that the error was bona fide and without any intention to evade tax. The penalty under Section 129 therefore cannot be sustained.

30. This finding does not create a general exemption for wrong addresses or reduce a valid penalty of 200 per cent on equitable grounds. A deliberate change of destination, an unidentified consignee or a material gap in the supporting documents may justify a different result. Here, the explanation and the matching goods distinguish the case from substantive evasion or a complete disregard of transit documentation. There is therefore no question of reducing the penalty percentage under Section 126(6). The demand fails because the penalty provision does not apply to the facts

established in this case.

31. Tax administration must protect revenue through accurate and verifiable compliance. It must also distinguish honest documentary mistakes from conduct that conceals a taxable movement. Proportionality guides the lawful exercise of statutory power, but does not independently authorise cancellation of a penalty contrary to the statute. Treating the explained address error in this case as proof of clandestine movement would ignore the factual distinction recognised by the jurisdictional High Court.

32. Since the appeal succeeds on the substantive ground discussed above, we need not decide the remaining objections about DIN, authentication and the adequacy of the notice. We express no general view on whether the Central DIN instructions apply to these State-tax orders. The nominal penalty mentioned in paragraph 6 of the circular is a separate matter and requires its own legal and factual basis. No separately adjudicated penalty under Section 125 is before us. We therefore do not substitute such a penalty for the cancelled demand under Section 129.

Operative order

33. For these reasons, Appeal No. APL/D23/2026 is allowed. Order-in-Appeal No. ZD091024405657E dated 24.10.2024 and the underlying Order-in-Original dated 17.02.2024 are set aside to the extent that they impose and uphold the disputed IGST penalty of Rs. 1,80,254/- for the address discrepancy in invoices UPD230021419 and UPD230021420. The penalty demand and any consequential recovery action based on it are annulled.

34. Any amount deposited or recovered towards the penalty set aside by this order, including any appellate pre-deposit attributable to it, shall be refunded to the Appellant under the applicable statutory

procedure, with interest wherever legally payable. Any security furnished solely for this demand shall be discharged. These directions do not require a refund of, or otherwise affect, tax lawfully payable on the underlying supply.

35. The respondents shall give effect to this order and update the related demand records. Any cross-objection seeking to uphold the disputed penalty is disposed of in terms of the above findings. There shall be no order as to costs.

Registrar is directed to provide copy of this order to the Respondent.

Order pronounced in the open Tribunal proceeding.

(Dr. Sanjay Kumar Chandhariyavi)

(Sungita Sharma)

Dated: 01.10.2026