Case Citation: (2026) taxcode.in 229 GSTAT

GSTAT

State Bench Lucknow

Court No. Court I

APL/15/LCK/2026

M/S OM FUELS .....Appellant

Versus

PAWAN KUMAR JEEWANI, PROPRIETOR, 105 MUGALPURA AYODHYA & ORS. .....Respondent

Quorum

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

Counsel for Appellant
SHRI HIMANSHU SHARMA, CA

Counsel for Respondent
MR. ASHUTOSH MISHRA,
ASSISTANT 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. : ZN0903709260005 80H

Date of order : 28/09/2026

1.	GSTIN/Temporary ID/UIN - 09ABUPJ9796R1ZY	
2.	Appeal Case Reference no. - APL/15/LCK/2026	Date - 12/02/2026
3.	Name of the appellant - M/S OM FUELS , ramavinimay@yahoo.com , 8318190780	
4.	Name of the respondant - 1. Shri Prakash Yadav Joint Commissioner(IT) State Tax Headquarters Lucknow , ctithqlu-up@nic.in , 7235002314 2. PAWAN KUMAR JEEWANI , ramavinimay@yahoo.com , 9415047942	
5.	Order appealed against -	
	(5.1) Order Type - Enforcement Order	
	(5.2) Ref Number - ZD091125386338	Date - 21/11/2025

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6.	Personal Hearing - 28/09/2026 14/09/2026 09/09/2026 02/09/2026 11/08/2026 23/07/2026 20/07/2026 19/05/2026 07/05/2026
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled
8.	Order in brief - The appellant, M/s Om Fuels, Ayodhya, transports goods from Gujarat to Ayodhya under a valid tax invoice and e-way bill. The e-way bill expires on 22.10.2025 at 11:59 PM, while the vehicle is intercepted on 24.10.2025 at about 06:00 AM near the declared destination. The proper officer imposes a penalty of Rs. 1,57,516/- under Section 129 of the CGST/UPGST Act, 2017 on account of the expired e-way bill. The appellant contends that the expiry is due to inadvertence and transportation delay, with no intention to evade tax. The First Appellate Authority upholds the penalty, leading to the present appeal.

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		157516	0	0		157516	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	157516	In view of the facts and circumstances of the case, the submissions of the Appellant, the material available on record and the judicial precedent discussed above, the present appeal filed by M/s Om Fuels, GSTIN 09ABUPJ9796R1ZY, is hereby allowed.

Place :LUCKNOW

Date : 29.09.2026

Signature

LUCKNOW ANAMIKA DEVI

Designation : Stenographer/Law researcher

Jurisdiction :Lucknow

ORDER

1. BRIEF FACTS OF THE CASE

1.1. The present appeal has been filed by M/s Om Fuels, having GSTIN 09ABUPJ9796R1ZY and its place of business at Ayodhya, Uttar Pradesh, against Order-in-Appeal No. AD091125018789P dated 21.11.2025 passed by the First Appellate Authority, State Tax, Ayodhya, whereby the appeal filed by the appellant against the penalty imposed under Section 129 of the Central Goods and Services Tax Act, 2017 and the Uttar Pradesh Goods and Services Tax Act, 2017, was rejected and the order dated 24.10.2025 passed by the proper officer was upheld.

1.2. The appellant is engaged in business involving the purchase and sale of the goods. In the present case, the appellant had purchased goods from Gujarat for transportation to Ayodhya, Uttar Pradesh. The goods were being transported under the relevant tax invoice and e-way bill generated in accordance with the provisions of the CGST/UPGST Act, 2017 and the rules made thereunder.

1.3. The e-way bill accompanying the consignment was valid up to 22.10.2025 at 11:59 PM. However, due to the delay in transportation and non-extension of the validity of the e-way bill, the vehicle carrying the goods was intercepted by the departmental authorities on 24.10.2025 at approximately 06:00 AM, near the declared ship-to address at Ayodhya, Uttar Pradesh.

1.4. After interception of the vehicle, the proper officer examined the documents accompanying the goods and observed that the validity of the e-way bill had expired before the interception. On the basis of the said discrepancy, proceedings were initiated under Section 129 of the CGST/UPGST Act, 2017, treating the transportation of goods without a valid e-way bill as a contravention of the applicable statutory provisions.

1.5. Consequently, the proper officer passed Order No. ZD091025142632M dated 24.10.2025, imposing a penalty of Rs. 1,57,516/- upon the appellant under Section 129 of the CGST/UPGST Act, 2017. The appellant, being aggrieved by the said order, preferred an appeal before the First Appellate Authority, challenging the imposition of penalty and contending that the expiry of the e-way bill was neither deliberate nor intended to evade tax.

1.6. The appellant submitted that the goods had been purchased from Gujarat and were being transported to Ayodhya, Uttar Pradesh, involving a substantial distance. The road distance from Ahmedabad, Gujarat, to Ayodhya, Uttar Pradesh, is approximately 1,300 km. It was contended that the transportation of goods over such a long distance ordinarily requires considerable time and that the delay in reaching the destination was not deliberate or attributable to any attempt to evade tax.

1.7. The appellant further explained that the e-way bill could not be extended due to a bona fide oversight and the non-availability of regular staff during the Diwali festive period. It was also submitted that the office remained closed on 23.10.2025 on account of Bhai Dooj and that the driver had not informed the appellant about the impending expiry of the e-way bill. According to the appellant, the lapse occurred due to

inadvertence and circumstances relating to transportation and office functioning, rather than any deliberate act of non-compliance.

1.8. The appellant also contended that the goods were being transported to the declared destination and that the relevant tax invoice and transportation documents were available. It was submitted that no discrepancy regarding the identity of the goods, the declared destination or the underlying transaction had been established by the Department. The appellant maintained that no material had been brought on record to demonstrate any diversion of goods, suppression of the transaction or deliberate attempt to evade payment of tax.

1.9. The First Appellate Authority, however, rejected the appeal filed by the appellant and upheld the penalty imposed by the proper officer. Being dissatisfied with the said order, the appellant has preferred the present second appeal, seeking setting aside of the impugned order and consequential relief.

1.10. The principal controversy in the present appeal is whether the mere expiry of the validity of the e-way bill, in the absence of independent evidence establishing an intention to evade tax, is sufficient to sustain the penalty imposed under Section 129 of the CGST/UPGST Act, 2017.

2. QUESTION OF LAW

2.1. Whether the mere expiry of the validity of an e-way bill, without any independent evidence establishing an intention to evade tax, is sufficient to justify the imposition of penalty under Section 129 of the CGST/UPGST Act, 2017?

2.2. Whether the penalty imposed under Section 129 of the CGST/UPGST Act, 2017, can be sustained when the goods were accompanied by relevant transportation documents and the Department failed to establish any deliberate attempt to evade tax?

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 Central Goods and Services Tax Act, 2017 and the Uttar Pradesh Goods and Services Tax Act, 2017. The appellant submitted that the First Appellate Authority failed to properly appreciate the circumstances under which the validity of the e-way bill expired and erroneously upheld the penalty imposed under Section 129 of the Act.

3.2. The appellant stated that the goods were purchased from Gujarat and were being transported to Ayodhya, Uttar Pradesh, under the relevant tax invoice and e-way bill. It was submitted that the e-way bill was valid up to 22.10.2025 at 11:59 PM, whereas the vehicle was intercepted on 24.10.2025 at approximately 06:00 AM near the declared ship-to address. The appellant contended that the expiry of the e-way bill occurred during the course of transportation and was not the result of any deliberate act or intention to evade tax.

3.3. The appellant stated that the transportation of goods from Gujarat to Ayodhya involved a substantial distance of approximately 1,300 km by road from Ahmedabad. It was submitted that the transportation of goods over such a long distance required considerable time and that the delay in reaching the destination was attributable to the circumstances of transportation. The appellant contended that the distance and time involved in the movement of goods ought to have been duly considered by the authorities while examining the alleged contravention.

3.4. The appellant stated that the validity of the e-way bill could not be extended due to a bona fide and inadvertent lapse. It was submitted that the office remained closed on 23.10.2025 on account of Bhai Dooj and that regular staff was not available during the Diwali festive period. The appellant further submitted that the driver had not informed the appellant about the impending expiry of the e-way bill, resulting in the failure to extend its validity in time. It was contended that the lapse was neither intentional nor motivated by any attempt to evade payment of tax.

3.5. The appellant stated that the goods were being transported to the declared destination and were accompanied by the relevant tax invoice and transportation documents. It was submitted that the Department had not established any discrepancy regarding the identity of the goods, the declared destination or the underlying transaction. The appellant contended that no material had been brought on record to demonstrate that the goods were being transported to an undisclosed destination or that the transaction was fictitious or intended to suppress tax liability.

3.6. The appellant stated that the mere expiry of the validity of the e-way bill cannot, by itself, be treated as conclusive evidence of an intention to evade tax. It was contended that a procedural lapse in the validity of the e-way bill and a deliberate attempt to evade tax are distinct matters and must be examined independently on the basis of the facts and evidence available on record. The appellant submitted that the Department had failed to establish any deliberate act, conduct or circumstance indicating an intention to evade tax.

3.7. The appellant stated that the Department had failed to discharge its burden of establishing that the appellant had any intention to evade tax. It was submitted that no independent evidence of diversion of goods, suppression of the transaction, concealment of the actual destination or deliberate non-payment of tax had been brought on record. The appellant contended that the authorities had proceeded primarily on the basis of the expiry of the e-way bill, without establishing any further circumstance demonstrating an intention to evade tax.

3.8. The appellant stated that the First Appellate Authority failed to appreciate that the goods were being transported to the declared destination and that the lapse in the validity of the e-way bill had occurred due to inadvertence and circumstances beyond the appellant's deliberate control. It was contended that the First Appellate Authority mechanically upheld the penalty without properly examining the explanation furnished by the appellant and the absence of any independent evidence of tax evasion.

3.9. The appellant stated that the penalty imposed under Section 129 of the CGST/UPGST Act, 2017, was not sustainable in the facts and circumstances of the case, as the Department had failed to establish that the appellant had deliberately contravened the statutory provisions with an intention to evade tax. It was further

submitted that the imposition of penalty merely on account of the expiry of the e-way bill, without establishing the necessary factual basis for such action, was unjustified.

3.10. The appellant stated that the judicial precedents relied upon in support of the appeal establish that the mere expiry of an e-way bill, in the absence of independent evidence indicating an intention to evade tax, cannot automatically be treated as sufficient ground for sustaining a penalty under Section 129 of the Act. The appellant submitted that the principles laid down in the judgments cited in the appeal were applicable to the facts of the present case.

3.11. The appellant, therefore, prayed that the impugned Order-in-Appeal be set aside, the penalty of Rs. 1,57,516/- imposed vide Order No. ZD091025142632M dated 24.10.2025, be quashed, and the amount deposited towards the said penalty be refunded or adjusted in accordance with the provisions of law.

4. SUBMISSION OF THE APPELLANT

4.1. The learned representative of the appellant submitted that the goods were purchased from Gujarat and were being transported to Ayodhya, Uttar Pradesh, under the relevant tax invoice and e-way bill. It was submitted that the e-way bill was valid up to 22.10.2025 at 11:59 PM, whereas the vehicle was intercepted on 24.10.2025 at approximately 06:00 AM near the declared ship-to address.

4.2. The appellant submitted that the transportation involved a substantial distance of approximately 1,300 km by road from Ahmedabad to Ayodhya, depending upon the route taken. It was argued that the movement of goods over such a long distance required considerable time and that the delay in transportation was neither deliberate nor intended to evade tax.

4.3. It was further submitted that the e-way bill could not be extended due to a bona fide oversight, non-availability of regular staff during the Diwali festive period and closure of the office on 23.10.2025 on account of Bhai Dooj. The driver also failed to inform the appellant about the impending expiry of the e-way bill.

4.4. The appellant contended that the goods were accompanied by relevant documents and were being transported to the declared destination. No material was brought on record to establish any diversion of goods, suppression of the transaction or deliberate attempt to evade tax.

4.5. The appellant further submitted that the mere expiry of the e-way bill constitutes, at the most, a procedural lapse and cannot, by itself, establish an intention to evade tax. Reliance was placed upon judicial precedents holding that penalty cannot be imposed merely on account of expiry of an e-way bill in the absence of material indicating tax evasion.

4.6. The appellant accordingly prayed that the impugned order be set aside, the penalty of Rs. 1,57,516/- be quashed and the amount deposited be refunded or adjusted in accordance with law.

5. SUBMISSION OF THE RESPONDENT

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5.1. The learned departmental representative, appearing on behalf of the Department, contested the grounds of appeal and the submissions made by the appellant. It was submitted that the impugned order passed by the First Appellate Authority is legal and proper and does not call for any interference.

5.2. The Department submitted that the appellant was required to ensure that the goods in transit were accompanied by a valid e-way bill in accordance with the provisions of the CGST/UPGST Act, 2017 and the rules made thereunder. It was contended that the responsibility for maintaining the validity of the e-way bill rested upon the appellant and that the failure to extend its validity constituted a contravention of the statutory provisions.

5.3. The Department further submitted that the e-way bill had expired on 22.10.2025 at 11:59 PM, whereas the vehicle was intercepted on 24.10.2025 at approximately 06:00 AM. It was argued that the goods were being transported without a valid e-way bill at the time of interception and that the proper officer was justified in initiating proceedings under Section 129 of the CGST/UPGST Act, 2017.

5.4. The Department contended that the plea of long-distance transportation from Gujarat to Ayodhya and the explanation regarding the festive period, office closure and inadvertence could not absolve the appellant of its statutory obligation to maintain a valid e-way bill during the movement of goods.

5.5. It was further submitted that the appellant could not claim exemption from penalty merely on the ground that the goods were being transported to the declared destination or that the tax invoice and other documents were available. The Department maintained that compliance with the prescribed requirements relating to the e-way bill was mandatory and that the lapse warranted action under Section 129 of the Act.

5.6. The Department accordingly prayed that the appeal be dismissed and the order passed by the First Appellate Authority, affirming the penalty of Rs. 1,57,516/-, be upheld.

6. FINDINGS AND DISCUSSION

6.1. We have carefully considered the grounds of appeal, the submissions made by the appellant and the respondent, the material available on record, the impugned order and the relevant statutory provisions of the CGST/UPGST Act, 2017.

6.2. The principal issue for determination is whether the mere expiry of the validity of the e-way bill, without any independent material establishing an intention to evade tax, is sufficient to sustain the penalty imposed under Section 129 of the CGST/UPGST Act, 2017.

6.3. It is an admitted position that the goods were being transported from Gujarat to Ayodhya, Uttar Pradesh, and that the e-way bill expired on 22.10.2025 at 11:59 PM. The vehicle was intercepted on 24.10.2025 at approximately 06:00 AM near the declared ship-to address. The penalty of Rs. 1,57,516/- was imposed on account of the expiry of the e-way bill.

6.4. The distance between Ahmedabad, Gujarat, and Ayodhya, Uttar Pradesh, is approximately 1,300 km by road. The transportation of goods over such a long distance ordinarily requires considerable time. The distance and transportation period are relevant circumstances while examining the explanation furnished by the appellant regarding the delay in delivery.

6.5. The appellant has explained that the delay in transportation and non-extension of the e-way bill occurred due to inadvertence, non-availability of regular staff during the festive period, closure of the office on 23.10.2025 on account of Bhai Dooj and failure of the driver to inform the appellant about the impending expiry of the e-way bill. These explanations are required to be considered in the light of the surrounding circumstances and the material available on record.

6.6. The Department has primarily relied upon the expiry of the e-way bill and the absence of a valid e-way bill at the time of interception. However, the mere expiry of the e-way bill, by itself, does not conclusively establish that the appellant intended to evade tax. A procedural or documentary lapse and an intention to evade tax are distinct matters and must be examined on the basis of the facts and evidence of the case.

6.7. The statutory provisions relating to the movement of goods require compliance with the prescribed documentation and e-way bill requirements. Nevertheless, the existence of a procedural contravention does not dispense with the requirement of examining the circumstances in which the contravention occurred and whether the material on record establishes the basis for the penalty imposed.

6.8. In the present case, the goods were stated to be accompanied by the relevant tax documents and were being transported to the declared destination. The record, as placed before us does not establish any diversion of goods, suppression of the transaction, discrepancy in the identity of the goods or any other independent circumstance demonstrating an attempt to evade tax.

6.9. The Department has neither brought on record any independent evidence to establish that the appellant deliberately allowed the e-way bill to expire with the intention of evading tax, nor has any material been demonstrated to show that the goods were being transported for an undisclosed destination or that the transaction was otherwise fictitious or intended to suppress tax liability.

6.10. It is, therefore, necessary to examine whether the mere expiry of the e-way bill can be treated as sufficient proof of an intention to evade tax. In this regard, the judicial precedents dealing with expiry of e-way bills and imposition of penalty under Section 129 is relevant.

Judicial precedent

6.11. In the case of Assistant Commissioner (ST) & Others v. M/s Satyam Shivam Papers Pvt. Ltd., Special Leave Petition (Civil) No. 21132 of 2021, decided on 12.01.2022, the Hon'ble Supreme Court considered the issue of expiry of an e-way bill and the inference of tax evasion. The Supreme Court declined to interfere with the judgment of the Telangana High Court and observed that the inference of tax evasion merely because the e-way bill had expired was baseless in the facts of that case. The Court also upheld the reasoning that no intention to evade tax could be inferred merely on account of non-extension of the validity of the e-way bill.

6.12. The principle emerging from the above decision is that the expiry of an e-way bill, by itself, cannot automatically be treated as proof of an intention to evade tax when the surrounding circumstances and the material on record do not support such an inference.

6.13. Applying the aforesaid principle to the facts of the present case, it is observed that the appellant was transporting goods from Gujarat to Ayodhya, Uttar Pradesh, over a substantial distance. The e-way bill expired during the course of transportation, and the vehicle was intercepted near the declared destination.

6.14. The explanation furnished by the appellant regarding the distance involved do not establish that the appellant deliberately allowed the e-way bill to expire with an intention to evade tax.

6.15. The Department has failed to establish, by any independent evidence, that the appellant had an intention to evade tax. No material has been brought on record to demonstrate that the goods were being transported to an undisclosed destination, that the transaction was fictitious, or that the appellant had attempted to suppress its tax liability.

6.16. It is settled that on the factual basis for the penalty imposed must be established by the authority seeking to sustain such penalty. In the present case, the Department has relied substantially upon the expiry of the e-way bill, without establishing any additional circumstance demonstrating an intention to evade tax.

6.17. The mere fact that the e-way bill had expired before the interception of the vehicle may establish a lapse in compliance with the prescribed documentation requirements. However, such lapse, in the absence of any supporting evidence of tax evasion, cannot automatically be equated with a deliberate attempt to evade tax.

6.19. The explanation regarding the long-distance transportation from Gujarat to Ayodhya is relevant to the assessment of the delay. The distance of approximately 1,300 km from Ahmedabad to Ayodhya could not be repeated in two or three days. Nevertheless, the conclusion in the present case is based not merely on the distance but on the overall circumstances and the absence of evidence establishing an intention to evade tax.

We rely upon the decision of Hon'ble Allahabad High Court in the case of M/S. Hindustan Herbal Cosmetics vs. State of U.P. And 2 Others [WRIT TAX No. - 1400 of 2019] wherein court held that *"without any other material establishing an intention to evade tax will not attract a penalty under Section 129 of the Goods and Service Tax Act, 2017. The Court observed that, "law is not to remain in a vacuum and has to be applied equitably in appropriate cases*

." The Court held that *intention to evade tax is a sine qua non for imposition of penalty*

We rely upon the decision of Hon'ble Supreme Court of India in the case of Hindustan Steel Ltd. v. State of Odisha, wherein court held that *"The discretion to impose penalty must be exercised judicially. A penalty will ordinarily be imposed in case where the party acts deliberately in defiance of law, but not in case where there is a technical or venial breach of the provisions of the Act or where the breach flows from a bonafide belief that the offender is not liable under the Act. An order imposing penalty for failure to carry out a statutory obligation is the result of quasi-judicial proceeding. Penalty will not be ordinarily imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest or acted in conscious disregard of its obligation. Penalty will not be imposed merely because it is lawful to do so. Even if a minimum penalty is prescribed, the authority will be justified in refusing to impose penalty, when there is a technical or venial breach of the act or where breach flows from a bonafide belief that the offender is not liable to act in the manner prescribed by the statute."*

6.21. In view of the above discussion, this Authority finds that the Department has failed to establish that the appellant had any intention to evade tax. The penalty imposed merely on account of the expiry of the e-way bill, without any independent evidence of tax evasion, is not sustainable in the facts and circumstances of the present case.

6.22. Accordingly, the findings of the First Appellate Authority upholding the penalty cannot be sustained. The impugned order is liable to be set aside, and the appeal deserves to be allowed.

7. ORDER

7.1. In view of the facts and circumstances of the case, the submissions of the Appellant, the material available on record and the judicial precedent discussed above, the present appeal filed by M/s Om Fuels, GSTIN 09ABUPJ9796R1ZY, is hereby allowed.

7.2. The impugned Order-in-Appeal No. AD091125018789P dated 21.11.2025 passed by the First Appellate Authority, State Tax, Ayodhya, is hereby set aside.

7.3 If any 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.

28.9.26
(Santosh Kumar Srivastava)

28/9/26
(Arvind Kumar)

Dated: 28.09.2026