**GSTAT**

**State Bench Bengaluru**

**Division Bench Court No. Court II**

**APL/174/BUR/2026**

VALUECART PRIVATE LIMITED **.....Appellant**

**Versus**

COMMERCIAL TAX OFFICER (ENF), COMMERCIAL TAX OFFICER (ENF)-05 SOUTH ZONE BANGALORE, B BLOCK 3RD FLOOR RAJENDRANAGAR 80 FEET ROAD KORAMANGALA BENGALURU â€“ 560047 & ORS. **.....Respondent**

**Quorum**

**Hon'ble Sudha Koka, Member (Technical)**
**Hon'ble Srikanth Venkatraman, Member(Judicial)**

**Counsel for Appellant**
IN

I
DISHA GURSAHANEY

**Counsel for Respondent**
DR RAMYA , STATE AR

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. :** ZA290170926000231H **Date of order :** 30/09/2026

| | | |
|---|---|---|
| **1.** | GSTIN/Temporary ID/UIN - 29AAFCV5265N1ZK | |
| **2.** | Appeal Case Reference no. - APL/174/BUR/2026 | Date - 24/02/2026 |
| **3.** | Name of the appellant - VALUECART PRIVATE LIMITED , finance@valuecart.in , 9844088834 | |
| **4.** | Name of the respondant -<br>1. JCCT (e-Audit) , jccte-audit@ctd.ka.gov.in , 9448811330<br>2. Commercial Tax Officer (ENF) | |
| **5.** | Order appealed against - | |
| | **(5.1) Order Type -** Demand Order | |

| | | |
|---|---|---|
| | **(5.2) Ref Number** - ZD290322016512U | Date - 06/03/2023 |
| **6.** | Personal Hearing - 30/09/2026 03/09/2026 24/07/2026 15/07/2026 17/06/2026 | |
| **7.** | Status of Order under Appeal - Reject - Order under Appeal is annulled | |
| **8.** | Order in brief - 1. Genesis of the Appeal This appeal arises out of the Order-in-Appeal in Form GST APL-04 dated 6 March 2023 passed by the First Appellate Authority under Section 107 of the CGST Act, which confirmed the adjudication order dated 17 April 2022 passed by the Ld. Commercial Tax Officer (Enf-05, South Zone, Bangalore). The original order levied a penalty of ?20,13,640/- under Section 129 of the CGST/SGST Act for non-generation of an e-way bill / delivery challan during the return movement of imported goods back to the custom agent's bonded warehouse. 2. Factual Matrix & The Substantive Core The Appellant imported high-value electronic goods (printers, cameras, and cartridges) from South Korea vide Import Invoice No. FAB15FRGMICO dated 23 February 2022, discharging full Customs Duty and IGST at the port of entry. The goods were cleared for home consumption on 23 March 2022 and stored at the custom agent's facility (M/s. Dart Global Logistics Pvt. Ltd., Bangalore International Airport). On 24 March 2022, the goods were dispatched under a valid e-way bill and import documents to Amazon's APoB (Appointment ID: 363830553). However, due to severe traffic gridlocks en route, the vehicle missed its allotted delivery time slot. Because Amazon's premises lacked holding space and refused entry outside the slotted window, the conveyance was forced to haul the goods backward to the custom agent's bonded warehouse at the airport for safe temporary storage. In this hurried, unexecuted return loop, the driver/logistics team inadvertently omitted to generate a return e-way bill or delivery challan, leading to interception and a heavy 200% penalty under Section 129 Conclusion & Final Order In light of the aforesaid factual matrix, the binding jurisdictional mandate of the Hon'ble High Court of Karnataka, and established national jurisprudence prohibiting mechanical penalties in the absence of mens rea, the following Order is passed: ORDER The impugned Order-in-Appeal in Form GST APL-04 dated 6 March 2023, confirming the Order-in-Original dated 17 April 2022, is hereby set aside. The penalty of ?20,13,640/- levied under Section 129 of the CGST Act quashed. In its place, invoking the principles upheld in Kristna Engineering Works (supra) a general penalty of ?25,000/- is imposed under Section 125 of the CGST Act for the technical omission of the return transit document. The Respondents are directed to refund the 25% cash deposit (?5,03,410/-) made via Form GST DRC | |

## 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** | 1006819.79 | | 1006819.79 | 25000 | 0 | | 0 | | 2013639.58 | 25000 |
| **(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 levy of penalty of INR 20,13,640/- vide above said orders u/s 129(3) of the CGST Act 2017, in Form GST MOV 09 dtd: 17/04/2022 by the Respondent for non furnishing of prescribed documents in respect of movement of goods claimed, leading to contravention of provisions of Section 68 read with Rule 138 and 138A of CGST Rules. The appeal is dismissed upholding the order of the Respondent. | |

Place :BENGALURU

Date : 05.10.2026

Signature

BENGALURU Sudha Koka

Designation : Member

Jurisdiction :Bengaluru

**ORDER**

**Per: Sudha Koka, Member Technical (Centre)**

**Table of Contents**

| Sl . No. | Section |
|---|---|
| 1. | Genesis of the Appeal |
| 2. | Factual Matrix & The Substantive Core |
| 3. | Chronological Time Chart of Events |
| 4. | Issues to be Determined |
| 5. | Summary of the Legal Precedents Considered by this Court |
| 6. | Our Analysis & Reasoning |
| 7. | Reconciling Factual Divergence with the threshold requirement of tax payment on goods |
| 8. | Application of Binding Jurisdictional Precedent & Appropriate Relief |
| 9. | Conclusion & Order |


## 1. Introduction and the Genesis of Appeal

This appeal examines whether a procedural documentation failure during the unexecuted return transit of fully duty-paid imported goods justifies harsh penalties under Section 129 of the CGST Act. Where goods are covered by valid import documents and the transit interruption arises from bona fide logistical delays rather than an intent to evade revenue, penalizing the taxpayer constitutes administrative overreach. Grounded in established legal principles, this Court holds that minor procedural lapses without proof of

*mens rea* or financial loss to the public exchequer cannot attract confiscatory penalties.

This matter arises out of the impugned Order-in-Appeal in Form GST APL-04 dated 6 March 2023 passed by the First Appellate Authority under Section 107 of the CGST Act, which confirmed the adjudication order dated 17 April 2022 passed by the Ld. Commercial Tax Officer (Enf-05, South Zone, Bangalore). The original order levied a penalty of ?20,13,640/- under Section 129 of the CGST/SGST Act for non-generation of an e-way bill / delivery challan during the return movement of imported goods back to the custom agent's bonded warehouse.

***2. Factual Matrix & The Substantive Core***

The undisputed facts reveal that the Appellant imported high-value electronic goods (printers, cameras, and cartridges) from South Korea vide Import Invoice No. FAB15FRGMICO dated 23 February 2022, discharging full Customs Duty and IGST at the port of entry. The goods were cleared for home consumption on 23 March 2022 and stored at the custom agent's facility (*M/s. Dart Global Logistics Pvt. Ltd.*, Bangalore International Airport).

On 24 March 2022, the goods were dispatched under a valid e-way bill and import documents to Amazon's APoB (Appointment ID: 363830553). However, due to severe traffic gridlocks en route, the vehicle missed its allotted delivery time slot. Because Amazon's premises lacked holding space and refused entry outside the slotted window, the conveyance was forced to haul the goods backward to the custom agent's bonded warehouse at the airport for safe temporary storage. In this hurried, unexecuted return loop, the driver/logistics team inadvertently omitted to generate a return e-way bill or delivery challan, leading to interception and a heavy 200% penalty under Section 129.

***4. Chronology of Events***

| Date | Event Description |
|---|---|
| **23 February 2022** | Appellant imported electronic goods (printers,print cameras, cartridges) from South Korea vide Invoice No. FAB15FRGMICO. |
| **06 March 2022** | Imported goods arrived at the port of entry and were subsequently cleared for home consumption. |
| **23 March 2022** | Goods were cleared and stored at the custom agent's bonded warehouse (*M/s. Dart Global Logistics Pvt. Ltd.*, Bangalore International Airport). |

| | |
|---|---|
| **24 March 2022** | Goods dispatched to Amazon's APoB under a valid e-way bill and import invoices, scheduled for delivery during the allotted time slot. Due to severe traffic congestion, the conveyance missed the slot and was forced to return to the airport warehouse without a return e-way bill. |
| **17 April 2022** | Ld. Commercial Tax Officer (Enf-05) passed the original adjudication order confirming a penalty of ?20,13,640/- under Section 129. |
| **06 March 2023** | First Appellate Authority passed the impugned Order-in-Form GST APL-04 dismissing the Appellant's appeal. |
| **28 March 2023** | Appellant's bank account debited of ?15,10,230/- (75% of penalty) discharged via bank guarantee. |
| **10 April 2023** | The Proper Officer issued an email intimating the realization of the Bank Guarantee. |

***3. Issues to be Determined***

Heard both parties extensively. Upon a careful evaluation of the grounds of appeal, record, contentions of both the parties, and the impugned OIA, this Court formulates the following core issues for determination:

1. **Whether the return transit of 100% duty-paid imported goods back to the customs warehouse—following an aborted delivery slot caused by severe urban traffic —without a fresh e-way bill constitutes substantive tax evasion under Section 68 read with Rule 138, or a procedural lapse?**

1. **Whether proof of *mens rea* (intent to evade tax) is a mandatory prerequisite for invoking confiscatory penalties under Section 129(1)(a) of the CGST/SGST Act, or whether Section 129 operates as an absolute strict liability provision?**

1. **Whether the lower Appellate Authority erred in dismissing foundational case law precedents (*Smart Roofing, Indus Towers, Satyam Shivam Papers*) and whether the Revenue's reliance on administrative circulars and *Gati Kintetsu Express* is sustainable?**

***5. Summary of the Legal Precedents Considered by this Court***

| Case Name & Citation | Forum | Core Legal Principle / Holding |
|---|---|---|
| ***Assistant Commissioner (ST) v. Satyam Shivam Papers Pvt. Ltd.*** [2022 (57) G.S.T.L. 97 (SC)] | Supreme Court of India | Mere procedural expiry or paperwork technicality cannot raise a presumption of *mens rea* or tax evasion without tangible evidence of intent. |
| ***Orson Holdings Company Ltd. v. Union of India*** [(2023) 3 Centax 48 (Guj.)] | High Court of Gujarat | When goods move under robust, authentic foundational documents, minor transit paperwork failures do not constitute "ill-intent." |
| ***Nezone Tubes Ltd. v. Union of India*** [(2024) 18 Centax 150 (Jhar.)] | High Court of Jharkhand | External logistical bottlenecks and site-access blocks negate negligence or any intent to evade tax. |

| | | |
|---|---|---|
| ***Medha Servo Drives Pvt. Ltd. v. Assistant Commissioner of State Tax*** | High Court at Calcutta | Appellate authorities commit a fatal error of law when confirming heavy penalties without recording reasoned findings on *mens rea*. |
| [(2023) 3 Centax 85 (Cal.)] | | |
| ***Kristna Engineering Works v. State of Karnataka*** | High Court of Karnataka | Where no tax evasion exists, harsh Section 129 penalties must be set aside, substituting a nominal general penalty under **Section 125** for technical omissions. |
| [(2024) 19 Centax 502 (Kar.)] | | |

***6. Our Analysis & Reasoning***

Addressing the issues framed for determination, this Court has critically analyzed the findings recorded by the lower Appellate Authority (OIA) and holds as follows:

- **We refute the OIA's Finding that goods or being returned with "No Documents / Unsupported Return Transit":**

The OIA erroneously treated the return transit as an independent, undocumented commercial movement simply because the forward e-way bill was cancelled following the missed delivery slot. This finding ignores the fact that the goods are 100% duty-paid imports backed by valid Bills of Entry, import invoices, delivery challans, and Amazon's slot cancellation letters. The physical verification report (Form GST MOV-04) confirmed **zero discrepancies in goods or quantity**. The movement back to the customs bonded warehouse was an involuntary logistical fallback, not a clandestine sale.

- **Untenable the OIA's Finding on Strict Liability and Exclusion of *Mens Rea*:**

We hold that the OIA's conclusion that Section 129 is a strict liability provision where *mens rea* is irrelevant stands directly negated by binding jurisprudence. The Hon'ble Supreme Court in ***State of Uttar Pradesh v. M/s. Satyam Shivam Papers Pvt. Ltd.*** [2022 (57) G.S.T.L. 97 (SC)]

Unequivocally established that **intent to evade tax (*mens rea*) is a sine qua non** for invoking Section 129 penalties, especially where transactions are fully accounted for in statutory records and taxes are fully paid. Furthermore, the jurisdictional Karnataka High Court in ***Kristna Engineering Works v. State of Karnataka*** [(2024) 19 Centax 502 (Kar.)] , relying on Satyam Shivam Papers has held that minor procedural paperwork lapses unaccompanied by tax evasion cannot attract confiscatory Section 129 penalties.

- **Refuting the OIA's Dismissal of Case Laws (*Smart Roofing, Indus Towers*) & Distinguishing *Gati Kintetsu Express*:**

The OIA attempted to sideline binding precedents like *Smart Roofing* and *Indus Towers* on narrow factual distinctions (such as branch transfers vs. return transits). However, the underlying *ratio decidendi* remains consistent: procedural paperwork errors without tax loss cannot attract 200% penalties. Similarly, the Revenue's reliance on ***Gati Kintetsu Express v. State of Madhya Pradesh [***(2018) 15 G.S.T.L. 310 (MP)] is misplaced, as *Gati Kintetsu* involved an active, long-distance commercial haul (1,200 km) with Part-B blanked out from inception to evade compliance—whereas the present matter involves a duty-paid import return loop under force majeure traffic gridlocks.

***7. Reconciling Factual Divergence with the threshold requirement of tax payment on goods***

While a technical divergence exists between forward e-way bill expirations (*Satyam Shivam, Orson Holdings* ) and return of goods without a fresh e-way bill, the Appellant's **unassailable saving grace** lies in the substantive integrity of the transaction. The goods are 100% duty-paid imports, accompanied by authentic Bills of Entry, import invoices, and customs clearance documents. Because the goods were moving backward to a secure customs bonded warehouse (and not toward an unrecorded black-market buyer), there was zero commercial fraud, zero revenue leakage, and zero tax evasion. Following *Satyam Shivam* , paperwork omissions without revenue loss cannot justify confiscatory penalties.

***8. Application of Binding Jurisdictional Precedent & Appropriate Relief***

On the precise question of remedy for technical documentation omissions where no tax is evaded, this Tribunal is bound by the Hon'ble High Court of Karnataka in ***Kristna Engineering Works v. State of Karnataka*** [(2024) 19 Centax 502 (Kar.)]. The Karnataka High Court held that where the inability to update or maintain transit paperwork stems from bona fide operational hurdles and the material on record discloses zero intent to evade tax, invoking Section 129 is unsustainable. Instead, the Court directed that the harsh penalty under Section 129 must be set aside, substituting a nominal general penalty under

**Section 125 of the CGST Act** for the technical procedural omission.

***9. Conclusion:***

In light of the aforesaid factual matrix, the binding jurisdictional mandate of the Hon'ble High Court of Karnataka, and the Apex Court'swe jurisprudence prohibiting mechanical penalties in the absence of *mens rea, we pass the following Order.*

***ORDER***

1. The impugned Order-in-Appeal in Form GST APL-04 dated 6 March 2023, confirming the Order-in-Original dated 17 April 2022, is hereby **set aside**.

1. The penalty of ?20,13,640/- levied under Section 129 of the CGST Act quashed. In its place, invoking the principles upheld in *Kristna Engineering Works (supra)* a general penalty of **?25,000/-** is imposed under **Section 125 of the CGST Act** for the technical omission of the return transit document.

1. The Respondents are directed to refund the 25% cash deposit (?5,03,410/-) made via Form GST DRC-03 and release the bank guarantee furnished during the proceedings, after adjusting the nominal general penalty of ?25,000/-.

1. Compliance with this order, including the processing of refunds and release of bank guarantees, shall be completed by the jurisdictional authorities within **8 weeks** from the date of receipt of this order.

(Sudha Koka)

**Dated: 30.09.2026**