GSTAT

State Bench Agra

Court No. Court I

APL/61/AGR/2026

M/S SHRI KISHAN & CO. **.....Appellant**

Versus

D C 14 , DTY COMMISIONER, STATE GOODS AND SERVICE TAX & ORS. **.....Respondent**

Quorum

Hon'ble Ajeet Singh, Member(Judicial)
Hon'ble Vivek Kumar, Member (Technical)

Counsel for Appellant
CA.(ADV) SAURABH AGARWAL

Counsel for Respondent
MUKESH KUMAR, D.C./ SR

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. : ZA090401026000050H **Date of order :** 08/10/2026

1.	GSTIN/Temporary ID/UIN - 09AANFS3477J2ZG	
2.	Appeal Case Reference no. - APL/61/AGR/2026	Date - 27/03/2026
3.	Name of the appellant - M/S SHRI KISHAN & CO. , shrikishanandco@gmail.com , 9759704500	
4.	Name of the respondant - 1. Shri Prakash Yadav Joint Commissioner(IT) State Tax Headquarters Lucknow , ctithqlu-up@nic.in , 7235002314 2. D C 14	
5.	Order appealed against - AD0908220222937	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD090424041120Y	Date - 03/04/2024
6.	Personal Hearing - 08/10/2026 22/09/2026 08/09/2026 23/07/2026 20/05/2026	

7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief - The impugned order passed by the First Appellate Authority is found in full compliance with the legal provisions. Accordingly, the first appellate order is upheld and the Appellant appeal is dismissed.
Summary of Order	
9.	If demand order then whether demand quantified: No

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
Short or non-payment of tax	386172	

Place :AGRA

Date : 08.10.2026

Signature

AGRA Sandeep Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Agra

ORDER

Per. Ajeet Singh (Judicial Member)

Shri Krishna and company Vs D C 14 , DTY COMMISIONER, STATE GOODS AND SERVICE TAX

APL/61/AGR/2026

ORDER

(Passed on 08th day of October, 2026)

1. Present second appeal has been directed u/s 112 of Central Goods and services tax, Act / UP, Goods and services tax, Act, 2017, by taxpayer/assesse against order dated- 03.04.2024, passed in first appeal no. 493/2022, vide which first appeal has been allowed in part and tax and penalty amount of Rs. 5,09,912/- reduced to Rs. 1,23,740/-. For brevity here-in-after in the order appellant and respondent will be addressed as taxpayer and revenue, respectively.
2. Facts giving rise to present appeal may be stated thus, that appellant having GSTIN 09AANFS3477J2ZG, running business of trading of copper/aluminum wire and electrical equipment. From revenue SIB had made a search u/s 67 of CGST/SCGT, Act, on business premises of taxpayer on 27.11.2017. At the time of search, a tempo vehicle bearing registration no. UP-80CT-4871, was found unloading copper/aluminum wire but taxpayer or his representative present on the relevant time did not produce any legal document for the goods being unloaded form the tempo. Driver of the tempo has only shown a receipt mentioning “name of transporter M/s Bobby goods carrier, Jatni bagh, jeoni Mandi, Agra, dated- 27.11.2017. On being asked by SIB, taxpayer answered that transporter has forgotten the papers like invoice and bilty mistakenly at transport company’s office. SIB has also verified the goods already stored in the business premises from books of account. Proprietors of the firm could not produced relevant documents before SIB for verification. On the same SIB reached to the conclusion that there was a violation of sec 74 with intent to evade tax by taxpayer firm and on the basis thereof a SCN was issued by stating therein, that there was a difference of Rs. 13,068/- in account and goods found there. In addition to, worth of goods being unloaded from tempo vehicle was Rs. 8,12,701/-. Further, goods were also been sold as clandstine sale (Mukth Parche). SIB has also prepared *Panchnama* coupled with inventories, it was also found that there was a difference among GSTR-3B, GSTR- 09, and GSTR 2A, filed by the taxpayer. On the assumption of evasion of tax, a SCN DRC-01, was issued to taxpayer. Which was replied by him in details but no supporting evidence was submitted to the reply. Learned proper officer after going through all the relevant documents for the relevant year has reached to the conclusion that taxpayer has evaded the tax on the turnover Rs. 14,16,418/- and accordingly imposed Rs. 2,54,956/- as tax and Rs. 2,54,956/- as penalty in total Rs. 5,09,912/-
3. Being dissatisfied by the order passed by proper officer, taxpayer has preferred first appeal no. 493/2022 before Additional Commissioner, Gr-II appeal, second, State Tax Agra.

4. Learned first appellate authority have heard both the parties and allowed the first appeal in part and reduced the tax liability of Rs. 5,09,912/- to Rs. 1,23,740/- on taxpayer. Being dissatisfied by such order passed by first appellate authority on 15.03.2024, taxpayer has further preferred this second appeal u/s 112 of CGST/UPGST, Act, 2017.
5. We have heard both the learned authorized representative of the parties and perused the record submitted on the GSTAT Portal by both the parties. The question before this tribunal for determination may be formulated as under-

Whether learned first appellate authority has committed any error of law or fact in not allowing the first appeal, in its totality?

FINDINGS WITH REASON

6. Learned counsel appearing for taxpayer has contended that due to a clerical mistake that the transporter has forgotten to carry the tax invoice along with the goods, which were said to being unloaded from tempo vehicle and learned adjudicating officer and first appellate authority have not considered this aspect in proper perspective and judiciously. He has further submitted that in course of hearing before adjudicating officer as well as before first appellate authority taxpayer had produced tax invoices, bilty, bank statement and ledger etc. pertaining to goods found unloading from the said tempo vehicle but these relevant documents have not been considered by either of authorities below. He has also submitted that 14 *loose parchas* found during search while taxpayer had produced relevant documents in this regard but authorities below have not considered details of said 14 *loose parchas.*
7. On the other hand, learned authorized representative for revenue has supported the findings recorded by first appellate authority and submitted for dismissal of this appeal.
8. First of all, the question before this tribunal is that on what basis learned first appellate authority had reduced the tax liability imposed by proper officer from Rs. 5,09,912/- to Rs. 1,23,740/- On perusal of para. 01 started from page no. 07 of impugned order, it appears that on allegation of the goods which were being unloaded from tempo no. UP-80- CT- 4871, parallel proceedings u/s 129 of CGST/UPGST, Act, was imitated against taxpayer and for releasing the goods Rs. 1,46,286/- as tax and Rs.1,86,286/- as penalty, in total Rs. 2,92,572/- were levied and collected from taxpayer. That amount was reduced by first appellate authority form the total amount levied by learned adjudicating officer. Revenue has not challenged that finding recorded by first appellate authority either by filling appeal or memorandum of cross objection. Therefore, in the considered opinion of this tribunal learned first appellate authority has legally reduced the tax liability on taxpayer as for the same cause of action two parallel proceedings cannot be allowed to be initiated against taxpayer under the same legislation CGST/UPGST, Act.
9. Now question remains for consideration before this tribunal is as to whether learned adjudicating and first appellate authority has rightly discarded the tax invoices, bilty bank account statement and e-way bill etc. filed by taxpayer in respect of the goods said to be unloaded at the time of search made by SIB.
10. As per admitted position SIB had made search on the premises concerned on 27.11.2017 and it was found that copper and aluminum wire were being unloaded from a tempo vehicle. At the time of that search neither driver of the vehicle nor authorized person present on the scene had produced any relevant documents such as invoice, e-way bill and transporter bilty before SIB. Show cause notice

was also issued to appellant with the effect that there was a inward supply without relevant papers which are legally required by person concerned accompanied the goods in transit. Even with the reply to show cause notice no valid paper was submitted.

11. On 06.03.2018 i.e. after more than three months two manual invoices, first one no. 323 dated - 25.11.2017 issued by DG sales corporation Kanpur and SE no. 778 dated- 23.11.2017, issued by Shivam Electricals, Varanasi were produced before adjudicating officer.
12. Though, it is submitted by learned counsel for appellant that when said goods were uploaded for movement from supplier firm, invoices have been misplaced at transporter's office and could not be found. It is further submitted that as soon as papers found same had been produced in adjudication process.
13. Appellant had produced manual invoices after a period of more than three months before adjudicating officer to justify the transaction. The proper officer as well as first appellate authority rejected this document as same were produced as an afterthought.
14. As per, section 68 read with rule 138 and rule 138 A mandates that the person in charge of a vehicle carrying goods of worth more than Rs. 50,000/- must carry the prescribed documents including tax invoice and valid e-way bill. Under rule 138 the generation of an e-way bill prior to the commencement of the movement is a strict statutory requirement while in the case in hand at the time of interception zero statutory documentation was available. A manual invoice produced three months post interception without electronic upload on the GST portal has no evidentiary credibility. Thus, post interception generation or manual creation of transit documents is a procedural after thought which can not retrospectively validate illegal transportation or cure a substantive breach. Appellant was provided proper opportunity through SCN and failure to demonstrate the legal document at that time lacks of bonafides of appellant. Goods which were being unloaded at the time of interception were copper and aluminum wires which are sensitive and high value commodities suspectable to tax evasion through unrecorded parallel trade and creates a strong presumption of intention to evade payment of tax by appellant. Such presumptions arises in favor of revenue could not rebutted by taxpayer by submitting relevant and reliable evidence.
15. Therefore, in view of the above discussion of facts this Tribunal is of the considered opinion that concurrent findings recorded by learned adjudicating officer and first appellate authority in respect of discarding the manual invoices produced after more than three months are well reasoned and do not deserve interference by this tribunal.
16. Consequently, this second appeal has no substance and accordingly dismissed. Order in appeal is hereby upheld. In the circumstances no order as to cost.
17. There is no interim application in the appeal.
18. Order is pronounced on 08.10.2026 in open court.
19. Order be communicated to all concerned, as per rules.

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(Ajeet Singh)

(Vivek Kumar)

Dated: 08.10.2026