GSTAT

State Bench Bengaluru

Division Bench Court No. Court II

APL/219/BUR/2026

SHILCHAR TECHNOLOGIES LIMITED **.....Appellant**

Versus

THE COMMISSIONER OF COMMERCIAL TAXES KARNATAKA, THE COMMISSIONER OF COMMERCIAL TAXES, VANIJYA THERIGE KARYALAYA 1ST MAIN KALIDASA ROAD GANDHI NAGAR BANGALORE & ORS. **.....Respondent**

Quorum

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

Counsel for Appellant

DHRUVANK PARIMAL PARIKH

Counsel for Respondent

THIPPA NAYAK , DCCT , 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. : ZN240171026000037H **Date of order :** 08/10/2026

1.	GSTIN/Temporary ID/UIN - 24AADCS3108B1Z2	
2.	Appeal Case Reference no. - APL/219/BUR/2026	Date - 07/04/2026
3.	Name of the appellant - SHILCHAR TECHNOLOGIES LIMITED , ppurohit@shilchar.com , 9979953931	
4.	Name of the respondant - 1. JCCT (e-Audit) , jccte-audit@ctd.ka.gov.in , 9448811330 2. The Commissioner of Commercial Taxes Karnataka	
5.	Order appealed against -	
	(5.1) Order Type - Demand Order	

	(5.2) Ref Number - APLGST832021-22	Date - 23/03/2023
6.	Personal Hearing - 08/10/2026 28/09/2026 21/09/2026 08/09/2026	
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled	
8.	Order in brief - We do not find any intention on the part of the appellant to evade tax payment. No violation of the provisions of the Act or the rules was established. We therefore hold that imposition of penalty under Section 129 is invalid and unjustified. Accordingly, we pass the following order. The appeal is allowed. The order-in-appeal No: APL/GST-83/2021-22 dated 23.03.2023 is set-aside with consequential relief.	

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		575190		0		575190	0
(d) Fees	0		0		0		0		0	0
(e) Others										0
(f) Refund										0

Section-II

Place of Supply/Name of State/UT	Demand	Tax	Interest	Penalty	Other	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Amount in dispute	0	0	575190	0	575190
	Amount Determined	0	0	0	0	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	OIO confirmed considering difference in nature of goods and quantity of goods. The plea of Rule 55 has also not been accepted	The appeal is allowed. The order-in-appeal is set-aside.

Place :BENGALURU

Signature

Date : 08.10.2026

BENGALURU Srikanth Venkatraman

Designation : Member

Jurisdiction :Bengaluru

ORDER

Per: Srikanth Venkatraman

(1) The appellant, M/s. Shilchar Technologies limited, has filed this appeal against the order of the Joint Commissioner of Commercial Taxes (Appeals), Belagavi Division ("the Appellate Authority") passed in order-in-appeal No. APL/GST-83/2021-22 dated 23.03.2023. The Appellate Authority confirmed the order of the Assistant Commissioner of Commercial Taxes (Enforcement), Vijayapur ("the proper officer") passed in order No. ACCT[Enf]/VJP/VIG-49/21-22 dated 04.01.2022, invoking Section 129 of the Central Goods and Services Tax Act ("the Act").

Factual matrix

(2) The appellant is involved in the business of manufacturing and supplying electronics and telecom and Power & Distribution transformers along with parts and components thereto, including transformer Oil. The appellant despatched 114 drums of transformer oil from Gujarat to Tamil Nadu, accompanied by an e-way bill and delivery challan no. 469 dated 29.12.2021. The transformer Oil was transported as part of the remaining material out of, and in connection with, the Transformers already supplied vide invoices prepared and tax paid under Invoice No. 1195, 1196, 1208, 1209, 1207, 1227, 1228. The invoices, issued on various dates and at various times in the tax period December, 2021, disclose that the remaining material will be sent in another vehicle.

(3) The conveyance bearing No. TN30BM7161 was intercepted by the proper officer on 01.01.2022 at 11.15 PM at Managuli, NH-50, Vijayapur. The consignment was accompanied by an e-way bill and delivery challan. A physical verification of the conveyance found that it carried 114 barrels of transformer oil. The verification of the documents allegedly revealed that the appellant had mentioned the item description as 10MVA, 33/4x0.660 KV, OCTC, Oil Type Inverter Transformer HSN-85042310, for the taxable value of Rs.15,97,750/- and had not collected tax, and the quantity was mentioned as 1.00 No., which did not match with the description given in the e-way bill.

(4) Upon learning of the interception of the conveyance, the appellant emailed copies of 7 tax e-invoices and corresponding e-way bills, which the proper officer verified against the tendered documents. The proper officer was of the view that the e-invoices and e-way bills sent by email were not related to this transaction, and that the supply had already been completed and the appellant had already utilised the e-way bill for those transactions. Thereafter, the proper officer issued notice in Form GST MOV-07 dated 04.01.2022 proposing to impose a penalty of Rs. 2,87,595/- under Section 129(1)(a) of the Act. The proper officer granted seven days to submit objections and fixed a personal hearing on 11.01.2022 at 10 AM. Order in Form GST MOV 09 was passed on 04.01.2022 confirming the proposals for the reasons given in the Form GST MOV 07.

(5) The Appellate Authority dismissed the appeal vide order dated 23.03.2023. The Appellate Authority held that the verification of the invoices revealed that the tax invoices were issued item-wise and tax had been charged and collected separately in the said invoices. This clearly showed that the goods were not supplied in batches with a single tax invoice and corresponding delivery challan. The description of the goods mismatched between the delivery challan and the e-way bill. The appellant did not produce the original invoice before the proper officer; hence, the appellant attempted to evade tax by transporting 114 barrels of transformer oil. Hence, the present appeal before the Tribunal.

Submission of the appellant

(6) The submissions of the learned authorised representative of the appellant, CA Dhruvank Parikh, are summarised as follows:

(a) The transformer oil was part of a composite supply wherein the principal supply made in the course of business was a transformer falling under HSN 85042310; hence, the allied component, transformer oil, was despatched to the customer under the same HSN 85042310. The purchase order specifically mentioned that 10% spare transformer oil was required to be supplied, whose price was included in the price of the transformer. The appellant was therefore required to supply 210 drums of transformer oil to the recipient;

(b) the main description in the delivery challan read as Type inverter transformer, and the quantity as 1 number, because the supply of the transformer oil was part of the main supply. The delivery challan specifically mentioned carrying 114 drums of transformer oil, and tax was paid based on invoice nos. 1195, 1196, 1208, 1209, 1207, 1227, 1228 and hence there was no discrepancy in the documents accompanying the consignment;

(c) reliance was placed on Rule 55(5) of the rules to contend absence of violation of the Act or the Rule as the delivery challan referred to the complete invoices in respect of the entire supply;

(d) the procedure prescribed by circular no. 41/15/2018-GST dated 13.04.2018 was not followed as the order in Form GST MOV 09 was not uploaded electronically on the portal after considering the objections of the taxpayer. Reliance was placed on the decision of the Gujarat High Court in the case of *Trillion Lead Factory private limited Vs. State Tax officer [[2026) 38 Centax 321];*

(e) A reply was given on 05.01.2022, the payment was made on 06.01.2022, and a personal hearing was fixed on 11.01.2022, whereas the order in Form MOV 09 was dated 04.01.2022, resulting in violation of principles of natural justice. Reliance was placed on the Madurai Bench of the Madras High Court in *W.P.(MD) No. 3748/2025 dated 22.10.2025 (Century Apparels Private Limited vs. Deputy State Tax Officer (Intelligence), Roving Squad II, Madurai)*;

(f) the order was beyond the scope of the show cause notice as the notice proposed to levy a penalty of Rs. 2,87,595/- whereas a penalty of Rs. 5,75,190/- was levied in the order;

(g) Reliance was placed on the decision of the Karnataka High Court in the case of *Merry Gold Vs. Union of India [(2024) 19 Centax 503]* wherein the Court had set-aside the order imposing penalty as the Court found that except for non-mentioning of Kundan stones in the delivery challan, the other requirements of Rule 55 were complied with;

(h) Penalty at 200% of the tax payable cannot be levied as the tax on transformer oil was already included in the earlier issued tax invoices;

Submission of the respondent

(7) Mr. Thippanayak, DCCT, State Authorised Representative, supported the reasoning of the Appellate Authority and also filed written submissions contending as follows:

(a) The contention that the purchase order was ignored is not correct. The purchase order does not establish compliance with statutory documentation for the particular movement intercepted;

(b) the composite supply treatment for levy/classification does not dispense with the requirement to carry documents correctly identifying the goods and quantity actually in transit;

(c) the inclusion of the price in the contract does not validate the e-way bill reflecting 110 drums when 114 drums were physically found, nor does it cure deficiencies in the accompanying delivery challan/invoice documents.

(d) mere remarks appearing at the foot of the challan cannot override incorrect/inconsistent mandatory particulars in the document or the mismatch with the e-way bill;

(e) a principal line describing one transformer cannot be treated as a correct description/quantity when the vehicle was physically carrying 114 drums of transformer oil;

(f) a subsequent consignment of 96 drums does not cure the deficiencies of the intercepted consignment. The appellant's own case establishes that goods were being supplied in batches/lots, making compliance with each condition of Rule 55(5) for each consignment essential;

(g) the appellant had not established that each consignment was accompanied by the corresponding duly certified invoice copy;

(h) non-uploading of Form DRC 07 is a procedural compliance issue and does not answer the substantive discrepancies in the goods-in-transit documents;

(i) the GST Form MOV 06 and MOV 07 were issued, and MOV 09 was a reasoned order dealing with the discrepancies and the objection of the transporter/person in charge. MOV 09 contains findings and reasons and records that objections were considered and rejected;

(j) the decision of the Gujarat High Court in the case of *M/s. Trillion Lead Factory Private Limited vs. State Tax Officer [[2026) 38 Centax 321]* is not applicable as the Court found the very issuance/service of MOV 07 and MOV 09 was doubtful;

(k) the contention regarding the hearing date in MOV 07 is not tenable. The contentions were rejected on merits, and the order in MOV 09 was passed on 04.01.2022;

(l) the amount of Rs. 2,87,595/- was due to clerical error. The correct statutory liability was Rs. 5,75,190/- which was reflected in MOV 09;

Rejoinder by the appellant

(8) The rejoinder filed by the appellant is summarised as follows:

(a) The authorities cannot simultaneously contend that as the transformer oil had already been included in earlier taxable supplies and the tax having already been discharged on those supplies, still mechanically treat the entire value of the oil as fresh "tax payable" merely because of a documentation dispute;

(b) the authorities were not dealing with a case where completely unexplained goods were found in a vehicle but were dealing with goods whose identity, recipient, contractual source, commercial purpose, quantity, value, previous taxation, and prior and subsequent delivery were all explained;

(c) it was submitted that the character of the goods as part of an already taxed supply is relevant to determining whether there was any "tax payable on such goods" for purposes of Section 129(1)(a) of the Act. The authorities failed to identify a second taxable supply of the 114 drums.

(d) The Purchase Order establishes that the recipient had ordered transformers along with 10% spare transformer oil, and that the price of such oil was included in the contractual price;

(e) The appellant has complied with the statutory requirement of issuing a proper Delivery Challan accompanied by an e-way bill, barring a minor punching discrepancy of 114 (in delivery challan) vs. 110 (in e-way bill). The authorities had not tried to remotely demonstrate the nature of the contravention leading to invocation of Penalty under Section 129 of the Act;

(f) The authorities' attempt to brush aside the fact that the value of the transformer oil was already included in the earlier taxable supplies and that IGST had already been discharged is legally unsustainable;

(g) the OIO has exceeded the scope of the show cause notice in as much as the penalty proposed in the notice was 100% of the tax Amount whereas the penalty confirmed in the order-in-original was 200% of the tax Amount;

Findings

(9) Heard the rival submissions and perused the connected records. The following issues arise for our consideration:

(a) Whether the order of the proper officer dated 04.01.2022 issued in Form GST MOV 09 violates the principles of natural justice?

(b) Whether the order of the proper officer dated 04.01.2022 is beyond the scope of the show cause notice and hence violative of Section 75(7) of the Act?

(c) Whether the violation of the procedure laid down by the Board in circular No. 41/15/2018-GST dated 13.04.2018 affects the validity of the order of the proper officer?

(d) Whether the invocation of Section 129 of the Act is just and proper in the facts and circumstances of the case?

(a) Whether the order of the proper officer dated 04.01.2022 issued in Form GST MOV 09 violates the principles of natural justice?

(10) The interception was on 01.01.2022 at 11.15 PM. The notice in MOV 07 was dated 04.01.2022. Before receiving the notice, the appellant had submitted copies of 7 tax e-invoices and the corresponding e-way bills to the officer. The officer rejected the documents and issued a show cause notice. The officer granted seven days to submit objections. Personal hearing was fixed on 11.01.2022. Objections were filed on 5.1.2022. The officer passed the order on 4.1.2022 itself, simply stating that the objections were not acceptable. The reasons given for rejecting the explanation are identical to those in the show cause notice. The appellant filed records before the notice date and objections after receipt of the notice. The appellant's reply is not referenced. The respondent would state that the principles of natural justice were not violated, as the order was passed after considering the appellant's explanations. The appellant raised this issue before the appellate authority, but it was not considered.

(11) The principles of natural justice were violated while passing the order in Form GST MOV 09, as it was passed without considering the appellant's objections and grant of personal hearing. The order does not disclose the proper officer's application of mind to the appellant's objections. The proper officer had a statutory duty to refer to and consider the taxpayer's explanations before resorting to Section 129. The order

was passed without granting a personal hearing, as required by the statute. No reason was furnished for passing the order on the same date as the notice.

(b) Whether the order of the proper officer dated 04.01.2022 is beyond the scope of the show cause notice and hence violative of Section 75(7) of the Act?

(12) The notice in MOV 07 proposed to levy a penalty of Rs. 2,87,595/-, whereas the order in MOV 09 levied a penalty of Rs. 5,75,190/-. The appellant would submit that the order was beyond the scope of the notice and, as such, violated Section 75(7) of the Act. The respondent would submit that, as per law, the penalty leviable was Rs. 5,75,190/- only, but due to a clerical error, the notice showed a penalty of Rs. 2,87,595/-. As the error was due to a clerical mistake only, Section 75(7) was not attracted.

(13) Section 75(7) of the Act states that *"the amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand will be confirmed on the grounds other than the grounds specified in the notice"*. The statute is very clear. The quantum of penalty demanded in the order shall not exceed the amount specified in the notice. The provision does not make any exception to clerical errors. Nothing prevented the officer from issuing an erratum to the notice disclosing the exact penalty amount, especially when the notice granted 7 days' time to submit objections and a personal hearing was also fixed on 11.01.2022. The appellant raised this plea before the Appellate Authority, but the authority did not consider it. The order passed in Form GST MOV 09 is beyond the scope of the notice in Form GST MOV 07 and hence violates Section 75(7) of the Act.

(c) Whether the violation of the procedure laid down by the Board in circular no. 41/15/2018-GST dated 13.04.2018 affects the validity of the order of the proper officer?

(14) The circular No. 41/15/2018-GST dated 13.04.2018 laid down the procedure to be followed for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances and clause (h) of the said circular required the proper officer to upload the Form MOV 09 order in the common portal and the demand accruing from the proceedings shall be added in the electronic liability register and the payment shall be added to the electronic liability register by debiting the electronic cash ledger or the electronic credit ledger of the taxpayer.

(15) The authorised representative for the appellant would submit that the proper officer had not followed the procedure prescribed by the Board and hence the order was required to be set-aside on that ground. The appellant relied on the decision of the Gujarat High Court in Trillion *Lead Factory Pvt. Ltd. vs. State Tax Office [(2026) 38 Centax 321]*. The appellant raised this plea before the appellate authority, but the authority did not consider it. The respondent would submit that the lapse, if any, was a technical lapse only and the order cannot be set-aside on that ground.

(16) The Gujarat High Court in the case of Trillion *Lead Factory Pvt. Ltd. vs. State Tax Office [(2026) 38 Centax 321]*, while considering the circular, had allowed the writ petition and did not remand the matter back to the proper officer, as the Court found that the issuance of MOV 07 and MOV 09 on 25.08.2025 appeared doubtful and, secondly, personal hearing was not granted to the petitioner before passing the order. The procedural lapse is not following the Board's circular does not warrant setting aside the order on that ground.

(d) Whether the invocation of Section 129 of the Act is just and proper in the facts and circumstances of the case?

(17) The appellant has relied on Rule 55(5) of the rules to justify the absence of violation of the provisions of the Act and the rules. Rule 55(5) of the CGST Rules is extracted herewith:

"Where the goods are being transported in a semi knocked down or completely knocked down condition or in batches or lots –

(a) the supplier shall issue the complete invoice before dispatch of the first consignment;

(b) the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;

(c) each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and

(d) the original copy of the invoice shall be sent along with the last consignment".

(18) We have verified the delivery challan and the e-way bill. The supplier had issued the complete invoices before dispatch of the first consignment. This is evident from the fact that the delivery challan no. 469 dated 29.12.2021 refers to 7 invoices issued earlier prior to dispatch of the transformer oil. The invoices also reflected charging of integrated tax from the recipient. The Purchase Order establishes that the recipient had ordered transformers along with 10% spare transformer oil, and that the price of such oil was included in the contractual price. These facts remain undisputed.

(19) The appellant produced the invoices with e-way bills to the proper officer before issuance of the MOV 07 notice, but the documents were rejected on the ground that they related to a completed transaction. The Appellate Authority confirmed the penalty as the invoices were issued item-wise; the goods could not be transported in batches. The description of the goods mismatched between the delivery challan and the e-way bill. The appellant did not produce the original invoice before the proper officer; hence, the appellant attempted to evade tax by transporting 114 barrels of transformer oil.

(20) The Karnataka High Court, in the decision reported in (*2024) 19 Centax 503 (Merry Gold Vs. Union of India),* had held that *" so long as the Delivery Challan contains all the details as required under Rule 55 of the CGST Rules, mere non-mentioning of the Kundan stones cannot be treated as violation of Rule 55 of the CGST Rules and on this ground also, the impugned order cannot be sustained".*

(21) The appellate authority's reasoning is incorrect. Item-wise tax invoices cannot be a ground for holding that the goods were not supplied in batches. No provision in the Act supports the Appellate Authority's reasoning. The fact that a commercial transaction contains separately described items does not automatically establish that each item must be physically transported in the same consignment or that subsequent consignments are impermissible.

(22) The reasoning that a mismatch exists between the delivery challan and the e-way bill is incorrect. The delivery challan could have been worded differently to avoid confusion. The delivery challan contained a statement: *"pending material sending to customer, all material's price is already included in invoice no. 1195/1196/1208/1209/1207/1227/1228/policy no.C218577 – total drums 114 nos. (Rs. 14015.35 for each)* ". This statement comes to the aid of the appellant. The invoices referred to in the delivery challan reflect charging of integrated tax on the value of supplies; hence, the allegation of intention to evade payment of taxes cannot be fastened on the appellant. Rule 55(5) of the rules does not require submission of the original invoice to the proper officer. The proper officer, as well as the Appellate Authority, ought to have examined the records in the light of the explanation offered by the appellant.

(23) We do not find any intention on the part of the appellant to evade tax payment. No violation of the provisions of the Act or the rules was established. We therefore hold that imposition of penalty under Section 129 is invalid and unjustified. Accordingly, we pass the following order.

Conclusion

(a) The appeal is allowed. The order-in-appeal No: APL/GST-83/2021-22 dated 23.03.2023 is set-aside with consequential relief.

(Sudha Koka)

(Srikanth Venkatraman)

Dated: 08.10.2026