GSTAT

State Bench Prayagraj

Division Bench Court No. Court I

APL/6/ALB/2026

SARASWATI MOTORS **.....Appellant**

Versus

MOHAMMAD YAHIYA ANSARI, ADD. COMM. GRADE 2 APPEAL, SECTOR 3 (MOBILE SQUAD-3) PRAYAGRAJ & ORS. **.....Respondent**

Quorum

Hon'ble Mahtab Ahmad, Member(Judicial)
Hon'ble Ashish Varma, Member (Technical)

Counsel for Appellant

Shri K N Kumar, Adv

Counsel for Respondent

Smt. Vibha Mishra (DC/SR)
Shri Sunil Nirmal (AC/ASR)

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. : ZA090411026000033H **Date of order :** 09/10/2026

1.	GSTIN/Temporary ID/UIN - 09AALFM8584G1ZM	
2.	Appeal Case Reference no. - APL/6/ALB/2026	Date - 30/04/2026
3.	Name of the appellant - SARASWATI MOTORS , rajankitsrivastava@gmail.com , 9415324201	
4.	Name of the respondant - 1. Shri Prakash Yadav Joint Commissioner(IT) State Tax Headquarters Lucknow ,	

	ctithqlu-up@nic.in , 7235002314 2. MOHAMMAD YAHIYA ANSARI	
5.	Order appealed against - AD090522019221J	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD090124126851J	Date - 16/01/2024
6.	Personal Hearing - 09/10/2026 24/09/2026 25/08/2026 12/08/2026 24/07/2026	
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled	
8.	Order in brief - Impugned orders dated 25/11/2021 and 16/01/2024 are set aside. Penalty of ₹1,77,248/- is quashed. Full refund ordered with applicable interest. Liberty granted to the Department to proceed under Section 122/125 of the Act for the procedural documentation lapse.	
Summary of Order		
9.	If demand order then whether demand quantified: No	

Place :PRAYAGRAJ

Date : 09.10.2026

PRAYAGRAJ Ashish Varma

Designation : Member

Jurisdiction :Prayagraj

Per Hon'ble Ashish Varma, Member (Technical)

JUDGEMENT

1. This appeal has been filed under Section 112 of the Central Goods and Services Tax Act, 2017 and the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to jointly as "the Act") by M/s Saraswati Motors against the Order-in-Appeal dated 16/01/2024 passed by the First Appellate Authority (Additional Commissioner Grade-II (Appeal)-II, State Tax, Prayagraj) in Form GST APL-04 (Appeal Case Ref. No. AD090522019221J), upholding the demand order dated 25/11/2021 passed under Section 129(3) of the Act in Form GST MOV-09 by the Assistant Commissioner, Mobile Squad-3, State Tax, Prayagraj.

FACTS OF THE CASE

2. The appellant is an authorised dealer for M/s Hero MotoCorp Ltd. On 23.11.2021, the appellant was transporting six (6) motorcycles to M/s Prakash Motors, Mauaima, Prayagraj, through Vehicle No. UP70HT4103. The vehicle was intercepted on the Soraon–Pratapgarh Road, Soraon, Prayagraj, by the Assistant Commissioner, Mobile Squad-3, State Tax, Prayagraj. The consignment, comprising six Hero motorcycles valued at ₹4,05,138.00 (taxable value ₹3,16,514.04), was being transported from the appellant, M/s Saraswati Motors, Muir Road, Rajapur, Prayagraj, to the purchaser, M/s Prakash Motors. Upon inspection, the driver produced a valid e-Invoice (No. SM-MC/21-22/1924 dated 22.11.2021) listing the specific engine and chassis numbers of all six units, but was unable to produce an e-way bill.

3. The e-Invoice reflected a total consignment value of ₹4,05,138.00, comprising a taxable value of ₹3,16,514.04 and CGST and SGST of ₹44,311.98 each. The invoice carried complete digital authentication features, including the e-Invoice QR Code, the Acknowledgement Number and Date, and the unique Invoice Reference Number (IRN). Crucially, to establish physical traceability, the document also recorded the individual Engine Number and Chassis (Frame) Number of each of the six motorcycles.
4. The only document missing at the time of interception was the GST E-Way Bill (Form GST EWB-01). In his recorded statement, the driver explained that 22.11.2021 had been a business holiday and that the dealership's computer operator was in home isolation owing to COVID-19, which prompted him to move the consignment early, before regular office hours, to meet an urgent delivery request. The vehicle and consignment were thereafter taken into custody.
5. Enforcement proceedings moved rapidly over the following two days. On 25.11.2021, at 14:39:55 hrs, the inspecting officer ordered physical verification (Form GST MOV-02), and the physical verification report (Form GST MOV-04), completed at 14:40:17 hrs, revealed no discrepancy beyond the missing e-way bill. At 14:47:51 hrs, the officer served a Detention Order (Form GST MOV-06) together with a Show Cause Notice (Form GST MOV-07), demanding tax of ₹88,623.94 and an equal penalty of ₹88,623.94 (total ₹1,77,248.00), and directed the appellant to appear on 30.11.2021.

6. To secure immediate release of the seized motorcycles, M/s Saraswati Motors deposited the full amount of ₹1,77,248.00 under protest through internet banking at 15:39:55 hrs (CPIN 21110900396215). Five minutes later, and merely fifty-seven minutes after the Show Cause Notice was issued, the officer passed the final demand order under Section 129(3) of the Act (Form GST MOV-09) at 15:44:41 hrs, along with a summary order in Form GST DRC-07. The vehicle and consignment were released from detention later that day upon verification of the deposit, concluding the proceedings under Section 129 of the Act.

7. M/s Saraswati Motors challenged this determination before the First Appellate Authority in Form GST APL-01 on five principal grounds:

   i. **Procedural Nullity** — passing the final penalty order within fifty-seven minutes violated Section 75(4) of the Act and the principles of natural justice;

   ii. **Absence of Mens Rea** — penalty under Section 129 requires intent to evade tax, which was impossible here as the motorcycles were uniquely identifiable by engine and chassis numbers recorded on a valid e-invoice;

   iii. **Pre-Taxed Status and Zero Revenue Loss** — the goods were purchased pre-taxed from the manufacturer, M/s Hero MotoCorp Ltd., and the outward sale was duly declared in the appellant's GSTR-1 and GSTR-3B returns for November 2021;

   iv. **Force Majeure** — the delay was caused by the computer operator's COVID-19 isolation; and

v. **Alternative Penalty** — at most, the omission could attract a residual procedural penalty capped at ₹10,000 under Section 122(xiv) of the Act, rather than the penalty under Section 129.

8. The First Appellate Authority, by its Order-in-Appeal dated 16.01.2024 (Form GST APL-04), dismissed the appeal and upheld the tax and penalty demand in full. It held that Section 129 creates a strict statutory liability under which the mere physical absence of an e-way bill during transit mandates penalty, irrespective of intent to evade tax. Relying on the Supreme Court's ruling in M/s Guljag Industries v. Commercial Taxes Officer (2007) and the Calcutta High Court's judgment in Pushpa Devi Jain (2023), the Authority held that transport contraventions are civil liabilities admitting of no administrative discretion. Applying the rule of strict statutory interpretation from Mathuram Agrawal (2000), East India Cotton (1981) and M.S. Steel and Pipes(2020), it concluded that fiscal provisions must be enforced as per their plain text. It also rejected the natural justice argument, holding that the appellant had approximately two days between the interception on 23.11.2021 and the order on 25.11.2021 within which to generate the missing e-way bill on the portal.

9. In its appeal before this Tribunal in Form GST APL-05, M/s Saraswati Motors submitted that the First Appellate Authority erred in applying Guljag Industries — a legacy sales tax precedent —, and other cited judgements, while disregarding the binding rulings of the Allahabad High Court in M/s Falguni Steels v. State of U.P. (2024), M/s J.K. Cement Ltd. v. State of U.P. (2023), and M/s Shyam Sel and Power Ltd.

v. State of U.P. (2023), which hold that mens rea is an indispensable prerequisite for penalty under Section 129. The appellant reiterated that the unique chassis numbers, full GSTR return matching, and manufacturer invoice integration rule out any clandestine removal, and that the fifty-seven-minute adjudication window was a fatal jurisdictional defect. The appellant prayed that both the Order-in-Appeal dated 16.01.2024 and the original order dated 25.11.2021 be set aside, and for a full refund of ₹1,77,248.00 deposited under protest, together with statutory interest.

10. During the hearings, the learned Authorised Representative for the Respondent Revenue submitted that the Revenue was unable to access the GSTAT portal and could not upload its reply to the appeal memo. On 24.09.2026, when a further adjournment was sought, the Tribunal noted that sufficient opportunity had already been afforded to the Revenue — including one month granted on 25.08.2026, at its own request, to upload its reply — and that the Revenue could not be permitted to stall proceedings indefinitely; the request for adjournment was accordingly rejected. The Revenue's representative then submitted that the Revenue was prepared to argue the appeal on oral submissions, to which learned counsel for the appellant did not object, and the appeal was accordingly heard and argued on merits by both sides. The Revenue reiterated the impugned orders and submitted that the e-way bill was never generated even after the interception on 23.11.2021, indicating mala fide on the part of the appellant.

DISCUSSIONS AND FINDINGS

11. We have heard the learned Authorised Representative for the Revenue and learned counsel for the appellant at length, and have gone through the Show Cause Notice, the Order-in-Original, the Order-in-Appeal, the appeal memo with annexures, the statutory provisions and case law relied upon by both sides, and the other oral and documentary evidence on record.

12. We note, at the outset, that the appellant has for the first time, with its appeal before the Tribunal, formally annexed a ledger account of M/s Prakash Motors, which was not produced before either the adjudicating authority or the First Appellate Authority. Learned counsel for the appellant submitted that this document has been placed on record merely to substantiate references to M/s Prakash Motors already made before the authorities below. Having regard to the facts of the case, and in terms of Rule 112 of the GST Rules, 2017 read with Rule 45 of the GSTAT (Procedure) Rules, 2025, the Tribunal considers the introduction of this additional evidence to be justified and permits the same as necessary to meet the ends of justice.

Questions for Determination

13. The following questions of law arise for determination:

    i. whether mens rea (intent to evade tax) is a mandatory prerequisite for levying penalty under Section 129 of the Act;

    ii. whether a penalty under Section 129 can be sustained for the sole omission of an e-way bill where the transaction is accompanied by a genuine e-invoice and there is no evidence of tax evasion; and

iii. whether passing a penalty order within fifty-seven minutes of the Show Cause Notice constitutes a fatal defect to the order.

14. Before addressing these questions, we note that, in order to discharge the burden of proof under Section 155 of the Act, the appellant has placed on record its tax returns for November 2021, establishing that the transaction was fully and accurately reported. Form GSTR-1 records the e-Invoice SM-MC/21-22/1924 under the B2B section of the appellant's outward return, reflecting the Input Tax Credit of ₹88,623.96 passed on to M/s Prakash Motors; and Form GSTR-3B shows that the aggregate monthly tax liability, inclusive of tax on these six units, was duly paid and debited from the appellant's cash and credit ledgers.

15. On the question of possible tax evasion arising from the omission of the e-way bill during the transport of duty-paid motor-cycles, we find merit in the appellant's submission that each of the six motorcycles is a duly identifiable product, such that no tax evasion could realistically occur. The appellant links the physical nature of two-wheelers, and the requirement of registration with the Regional Transport Office, to the impossibility of tax evasion, relying on the judgment of the Madras High Court in Tvl. R.K. Motors v. State Tax Officer (W.P. (MD) No. 1287 of 2019), where it was held, at Paragraph 12, that:

"As rightly pointed out by the learned counsel appearing for the writ petitioner, the goods in question are two wheelers. They cannot be sold without proper registration with the Motor Vehicle Authorities. That would require proper documentation. Therefore, in a case of this nature, the writ petitioner

could not have evaded his statutory obligations in any manner. This aspect of the matter ought to have been taken note by the respondent."

15.1. This Tribunal agrees that each vehicle is uniquely identifiable by its Engine and Chassis numbers, and that the Motor Vehicles Act requires a valid tax invoice and Forms 21 and 22 for RTO registration and insurance, so that a clandestine sale without payment of tax is virtually impossible. We also note that the appellate authority, despite confirming the demand, in effect accepted this position, while maintaining that it was not for the Revenue to prove intent to evade tax, since penalty under Section 129(1) of the Act is triggered purely by procedural contravention.

Findings on Mens Rea

16. Turning to the principal issue — whether mens rea is a mandatory prerequisite for levying penalty under Section 129 of the Act — we find that the First Appellate Authority, in its Order-in-Appeal dated 16.01.2024, held that penalty under Section 129(1) of the Act is triggered purely by procedural contravention, rendering the presence or absence of intent to evade tax legally irrelevant. The Authority took the view that Section 129 applies automatically upon any technical breach, irrespective of intent, noting that the expression "intent to evade" does not appear in Section 129(1), unlike the corresponding provision of the former UP VAT Act. To support this strict-liability approach, it relied on Guljag Industries, and on Pushpa Devi Jain for the proposition that a missing e-way bill leaves no administrative discretion, invoking

Mathuram Agrawal and East India Cotton for the principle that tax statutes must be applied as written.

16.1. The appellant, in its appeal memo (Form GST APL-05), relied on a series of decisions of the Allahabad High Court establishing that intent to evade tax is an indispensable prerequisite (sine qua non) for invoking Section 129 — principally M/s J.K. Cement Ltd. v. State of U.P. (Writ Tax No. 44 of 2023), holding that a Section 129 penalty cannot be sustained over a minor technical fault, such as a missing e-way bill, where the accompanying documents disclose no discrepancy and no intent to evade tax; M/s Shyam Sel and Power Ltd. v. State of U.P. (Writ Tax No. 603 of 2023), holding that Section 129 must be read with Section 130, making intent to evade tax a mandatory condition for penalty; and M/s Falguni Steels v. State of U.P. (WTAX No. 146 of 2023, decided 25.01.2024), which followed both of the above rulings to set aside penalty orders passed in the absence of fraudulent intent.

16.2. The question before us is a narrow one: does penalty under Section 129 require the Revenue to establish that the taxpayer actually intended to evade tax, or may it be imposed for a mere lapse, irrespective of intent? This must be answered first by reference to the statute as it stood on the date of interception, rather than by reference to case laws alone.

16.3. The interception (23.11.2021), the Show Cause Notice (25.11.2021), and the order under Section 129(3) (25.11.2021), in the present case, all are of November 2021. Prior to its amendment by the

Finance Act, 2021 (with effect from 01.01.2022), Section 129(6) provided that, where tax and penalty were not paid within the prescribed time, "further proceedings shall be initiated in accordance with the provisions of section 130". Section 130, in turn, confines confiscation and penalty under that section to goods dealt with "with intent to evade payment of tax". Section 129, as it then stood, was therefore not a stand-alone provision; it was the first step of a process that, if carried further, led into a section built around intent. It is this statutory link — rather than any judicial gloss — that explains why intent came to be read into Section 129 as it then stood.

16.4. This was the law before the Allahabad High Court in the three decisions principally relied upon by the appellant. In M/s Falguni Steels (Writ Tax No. 146 of 2023), concerning an interception in February 2019, the Court held that mere failure to generate an e-way bill in time does not establish intent to evade tax, particularly where the tax invoice already carried the vehicle number and tax had already been paid by the supplier, following its earlier rulings in VSL Alloys, Modern Traders, Axpress Logistics, and Roli Enterprises. In M/s Shyam Sel and Power Ltd. (Writ Tax No. 603 of 2023), concerning a November 2021 transaction, the Court again read Sections 129 and 130 together and held that penalty could not stand, in the absence of a finding of intent to evade tax, where an e-way bill had been cancelled by the buyer without the seller's knowledge and the transaction was otherwise genuine. In M/s J.K. Cement Ltd. (Writ Tax No. 44 of 2023), concerning a shipment prior to 01.01.2022, the Court found no violation

at all, since the goods moved between two points within Madhya Pradesh and were exempt from carrying an e-way bill under a state notification; its observations on intent were, in that case, not essential to the decision. All three decisions were rendered under the unamended Section 129, then linked by statute to the intent requirement in Section 130, which gives their reasoning direct application to the present case.

16.5. We have also examined the authorities relied upon by the Revenue. The Supreme Court's ruling in Guljag Industries v. Commercial Taxes Officer arose under Section 78(5) of the Rajasthan Sales Tax Act, 1994, which contained no equivalent link to a separate intent-to-evade provision, unlike the unamended Section 129. On facts, too, the Supreme Court found that the blank declaration forms in that case were part of a deliberate scheme, so that intent was, if anything, present rather than dispensed with. Guljag Industries is accordingly distinguishable both in the statute it applied and in its own findings, and cannot be read as a general rule that the unamended Section 129 ignored intent altogether. Mathuram Agrawal and East India Cotton, cited for the principle that words must not be read into a taxing statute, are sound as general propositions but do not concern intent to evade tax. The Division Bench decision in M/s Enershell Alloys and Steels upheld a seizure for a documentary discrepancy, but the question of intent was neither raised nor argued in that case, and a point never argued cannot be a binding precedent on that point. The Kerala High Court's ruling in M/s M.S. Steel and Pipes, though not binding on this Tribunal, points in the same direction, holding that detention under Section 129 requires

an actual breach of law rather than a technical shortfall not required by the Rules.

16.6. We also derive guidance from the order of the Lucknow Bench of this Tribunal dated 19.08.2026 in M/s Lucknow Automotives, which dealt with closely comparable facts — motorcycles identified by engine and chassis numbers, no mismatch in quantity, value, or classification, and an e-way bill generated within minutes of interception. The Bench held that a genuine, bona fide lapse, unaccompanied by any indication of actual evasion, does not attract penalty under Section 129, and distinguished judgment in Writ Tax No. - 1559 of 2024 in the Allahabad High Court in M/S B M Computers v. Commissioner Commercial Taxes And 2 Others, relied upon by the Revenue, since that case involved an unfiled Part-B of the e-way bill combined with diversion of goods to a different destination — an indication of evasion absent both in Lucknow Automotives and in the present appeal.

16.7. On the facts of the present case, the vehicle was intercepted on 23.11.2021, the Show Cause Notice was issued on 25.11.2021, and the final order under Section 129(3) was passed the same day — all prior to 01.01.2022, the date on which the Finance Act, 2021 amended Section 129(6) and severed its link to Section 130. The unamended Section 129, tied by statute to the intent requirement in Section 130, therefore governs this appeal, placing it in the same legal setting as M/s

Falguni Steels and M/s Shyam Sel, both of which arose around the same time and interpret the very statutory provision applicable here.

16.8. On facts, the appellant's e-invoice recorded the engine and chassis number of each of the six motorcycles separately, carried a valid IRN, acknowledgment number, and QR code, and matched the figures declared in the appellant's GSTR-1 and GSTR-3B returns. Tax on the goods had already been paid at the time of purchase from the manufacturer, well before the goods were transported. Physical verification found no mismatch in quantity, description, or destination; the sole lapse was the non-generation of the e-way bill, which the driver explained was on account of the dealership's computer operator being under COVID-19 isolation on what was otherwise a holiday. These facts arguably present an even stronger case than M/s Falguni Steels, where the e-way bill, though delayed, was at least produced before the final order; here, no e-way bill was produced at any stage before the penalty order, which followed the Show Cause Notice by only fifty-seven minutes. This distinction — complete non-production, rather than delayed production — brings the case somewhat closer to Guljag Industries and M/s Enershell Alloys and Steels. What tips the balance back in the appellant's favour, however, is that, unlike in Guljag Industries, there is nothing on record suggesting any attempt to conceal the goods, their value, or their destination; if anything, the engine- and chassis-linked invoice made the shipment easier, not harder, to trace. The explanation for the delay is specific and verifiable, not a vague excuse, and neither authority below recorded any finding that the

appellant intended to evade tax. On balance, these facts fall within the reasoning of M/s Falguni Steels, M/s Shyam Sel, M/s J.K. Cement, and the GSTAT Lucknow Bench's order in M/s Lucknow Automotives, rather than within the strict-liability approach in Guljag Industries.

16.9. In Pushpa Devi Jain, the taxpayer transported goods under an expired or invalid e-way bill, supported only by unsubstantiated oral claims of vehicle breakdown and no corroborating documents. By contrast, the present case involves an authorised dealer transporting goods accompanied by a valid, IRN/QR-embedded e-invoice, complete engine/chassis traceability, and full GSTR return compliance, where the delay was attributable to COVID-19 isolation. We also note that the First Appellate Authority misquoted and misapplied M/s M.S. Steel and Pipes against the appellant: in that case, the Kerala High Court ruled in favour of the taxpayer, holding that non-mention of tax details in an e-way bill format that lacked a specific tax field was not a statutory breach.

16.10. We accordingly hold that intent to evade tax was, and remains, a necessary condition for imposing penalty under Section 129 as it applied to the appellant's transaction in November 2021, both on the wording of the law as it then stood and on the consistent reading of that wording by the jurisdictional High Court. The First Appellate Authority erred in relying on Guljag Industries and on the later, amended version of Section 129, which treats the provision as one of strict liability, and which did not apply to this transaction. Its order, together with the

original penalty order under Section 129(3), cannot be sustained to the extent it treats intent to evade tax as irrelevant to the appellant's case.

17. The second question is answered by the findings above. Once it is held that the physical nature of two-wheelers and their regulatory requirements indicate the impossibility of tax evasion, and that intent to evade tax was a necessary condition for penalty under Section 129 as it applied to the appellant's transaction in November 2021, the question whether a Section 129 penalty can be sustained for the sole omission of an e-way bill, where the transaction is accompanied by a genuine e-invoice and there is no evidence of tax evasion, stands answered in the negative.

Findings on the Fifty-Seven-Minute Adjudication

18. On the third question, concerning the passing of the final order within fifty-seven minutes of the Show Cause Notice and whether this violates the principles of natural justice and Section 75(4) of the Act, we turn to the relevant statutory provisions. Section 129(3) of the Act, as it stood prior to 01.01.2022, provided as follows:

"The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c)."

Section 75(4) of the Act provides as follows:

"An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person."

18.1. While Section 129(3), as it then stood, did not prescribe any time constraint upon the proper officer for issuing a Show Cause Notice or passing an order, the use of the word "shall" in Section 75(4) makes it mandatory to grant an opportunity of hearing where an adverse decision is contemplated. In the present case, an adverse decision was taken against the appellant, yet effectively no time was afforded to respond to the Show Cause Notice. The failure to provide a reasonable opportunity of hearing is a fatal defect that vitiates the original order. It was neither physically nor legally possible for the Adjudicating Authority to have applied its mind to the appellant's COVID-19 explanation, or to the traceability of six motorcycles, within fifty-seven minutes; this haste renders the order a jurisdictional nullity. This Tribunal is fortified in this view by the decision in M/s Falguni Steels v. State of U.P. (Allahabad High Court, 2024), where the Show Cause Notice (MOV-07) and the penalty order (MOV-09) were both issued on 21.02.2019, immediately after the trader deposited the demanded sum under protest to secure release of the consignment; the Court held that passing summary orders on the same day, without evaluating the e-way bills presented or establishing intent to evade tax, was legally unsustainable, and quashed the penalty order.

19. The appellant has submitted, that if any penalty is warranted, it should be limited to a procedural penalty of ₹10,000 under Section 122(xiv) of the Act for a documentation lapse, rather than the penalty under Section 129. In M/s Shyam Sel and Power Ltd. v. State of U.P. (Allahabad High Court, 2023), the Court held that where a documentation error, such as a cancelled e-way bill, constitutes a minor procedural breach without intent to evade tax, Section 129 proceedings cannot be sustained, observing that:

"The authority could have initiated proceedings under section 122 of the CGST Act instead of proceedings under section 129 of the CGST Act. Section 129 of the CGST Act must be read with section 130 of the said Act, which mandate the intention to evade payment of tax…… proceedings under section 129 of the CGST Act ought not to have been initiated, but it could be done under section 122 of the CGST Act."

Similarly, in Tvl. R.K. Motors v. State Tax Officer (Madras High Court, 2019), concerning two-wheeler consignments where the vehicle had taken a wrong route, the Court quashed the Section 129 detention and penalty orders as disproportionate and unreasonable, and, having regard to the Central Government Circular dated 14.09.2018 providing for condonation of minor documentation lapses with nominal fines, substituted the Section 129 penalty with a token procedural fine of ₹5,000 and ordered immediate release of the motorcycles.

20. We further note that, in addition to discharging its regular monthly output tax liability of ₹88,623.96 through its returns (Form GSTR-3B for

November 2021), the appellant was forced to deposit a total sum of ₹1,77,248.00 under protest on 25.11.2021 (Challan reference CPIN 21110900396215, Punjab National Bank) to secure the release of the vehicle and goods. This deposit comprised ₹88,624.00 towards tax and ₹88,624.00 towards penalty. Demanding and extracting tax of ₹88,624.00 a second time under Section 129(1)(a) for the exact same consignment amounts, in substance, to unconstitutional double taxation, while levying an additional penalty of ₹88,624.00 is contrary to the statutory scheme of the Act.

ORDER

21. In view of the above findings, the impugned orders dated 25.11.2021 and 16.01.2024 are hereby set aside.
22. The penalty of ₹1,77,248/- is quashed, and the appellant is entitled to refund of the amount deposited under protest, along with applicable interest in accordance with law.
23. However, having regard to the undisputed procedural breach of Rule 138A(1) in the non-generation of the e-way bill, the Department is granted liberty to proceed, in due course of law, for imposition of a procedural penalty under the appropriate provisions (such as Section 122 or Section 125 of the Act) specifically in respect of the documentation lapse.
24. The appeal is allowed in the above terms.

Place: Prayagraj
Date: 09.10.2026

(Ashish Varma)
Technical Member

(Mahtab Ahmad)
Judicial Member

The Judgement is signed, dated and pronounced today in open Court.

(Ashish Varma)
Technical Member

(Mahtab Ahmad)
Judicial Member

Date: 09.10.2026

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