GSTAT

State Bench Raipur

Division Bench Court No. Court I

APL/26/RPR/2026

NALWA STEEL AND POWER LIMITED **.....Appellant**

Versus

OFFICE OF COMMISSIONER STATE TAX, COMMISSIONER STATE TAX, COMMERCIAL TAX-GST DEPARTMENT, NORTH 5TH AND 6TH FLOOR, CAPITAL COMPLEX BUILDING CBD, TOWER-A, SECTOR-21, NAWA RAIPUR, ATAL NAGAR, CHHATTISGARH. **.....Respondent**

Quorum

Hon'ble Pradeep Kumar Vyas, Member (Judicial)
Hon'ble Chandra Bhushan Singh, Member (Technical)

Counsel for Appellant
MR. RAHUL DUBEY, ADVOCATE
MS. ANJALI LAKHWANI, ADVOCATE
MR. ALANKAR SINGH THAKUR, ADVOCATE
MR. BHAVESH MITTAL, CA

Counsel for Respondent
MR. ABHAY TIWARI, ADVOCATE

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.: ZN220051026000095H **Date of order:** 13/10/2026

1.	GSTIN/Temporary ID/UIN - 22AABCN3209L1ZQ	
2.	Appeal Case Reference no. - APL/26/RPR/2026	Date - 06/05/2026
3.	Name of the appellant - NALWA STEEL AND POWER LIMITED, ssrathi@nalwa.com, 9179077500	

4.	Name of the respondent - 1. OFFICE OF COMMISSIONER STATE TAX	
5.	Order appealed against -	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - 56/GST/2025	Date - 17/04/2025
6.	Personal Hearing - 13/10/2026 22/09/2026 17/09/2026 03/09/2026 29/07/2026	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	**Order in brief -** The order allows the appeal against detention penalty, holding that the documents established a bill-to/ship-to transaction and compliance with the movement requirements. The alleged failure of the actual supplier to issue invoices and generate e-way bills was not sustainable on the evidence. The Tribunal first explains Section 10(1)(b) of the IGST Act. A supplier may deliver goods directly to an ultimate recipient on the intermediary's direction, while billing the intermediary. The intermediary is deemed to receive the goods for place-of-supply purposes and may invoice the ultimate purchaser. Physical receipt by the intermediary is unnecessary. Such an arrangement is lawful when genuine, properly documented, accounted for and taxed. On the transaction's character, the original supplier's invoices identified Jindal Steel and Power as the billed purchaser and Gupta and Sons as the consignee. The onward invoices identified Gupta and Sons as both purchaser and recipient. The documents also recorded the vehicle and transporter. The Tribunal considered these linked invoices consistent with the asserted commercial arrangement. On who could generate the e-way bills, Rule 138(2) permits the consignor or consignee responsible for causing movement to generate them. The invoices described party-arranged transport, and the evidence showed that Gupta and Sons arranged transportation. Its generation of the e-way bills therefore did not constitute a breach merely because it was not the original seller. The timing objection was answered by factory-gate records showing that dispatch occurred after generation of the e-way bills and before interception. Correspondence between the intermediary and ultimate recipient corroborated the purchase arrangement. The electronically generated invoices and their particulars were capable of departmental verification. The Tribunal recognises that an intermediary may retain the supplier's invoice and issue its own onward invoice to preserve its customer relationship. Direct delivery and this invoicing practice do not themselves establish illegality. Considering the documentary chain, correspondence and gate records, the Tribunal finds the transaction covered by the bill-to/ship-to framework. Because the required compliance was established, Section 129 penalty could not survive on the recorded allegation. The Tribunal declines detailed determination of the intention-to-evade-tax argument. The appeal is allowed 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	320770	320770	320770	320770	0		0		641540	641540
(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	Upon examination of the facts and documents submitted in relation to the objections raised by the Appellant, and upon investigation of the case as discussed above, it has been found that there is a discrepancy in the e-way bill issued for transportation of the goods in the present matter. Accordingly, penalty under Section 129 of the Chhattisgarh Goods and Services Tax Act, 2017 is attracted upon the Appellant. Therefore, the penalty imposed by the competent authority under Section 129, amounting in total to Rs 6,41,540/- (CGST Rs 3,20,770/- + SGST Rs 3,20,770/-), is found to be proper. In view of the above, the Order (Form GST MOV-09 Order of Demand of Tax and Penalty) bearing no. AC/108/2024-25 dated 11.11.2020 is hereby confirmed.	Allowed.

Signature

Place: RAIPUR

Date: 13.10.2026

RAIPUR Pradeep Kumar Vyas
Designation: Member
Jurisdiction: Raipur

ORDER

Date of Hearing: - 22.09.2026

Date of Order: - 12 10.2026

*(Pronounced in Open Tribunal dated **13/10/2026**)*

Per: Pradeep Kumar Vyas Member (Judicial)

1. This appeal has been preferred under Section 112(1) of the Central Goods and Services Tax Act, 2017 and the Chhattisgarh Goods and Services Tax Act, 2017 (hereinafter referred to as the "GST Act, 2017"), against the order dated 17.04.2025 passed by the Appellate Authority and Joint Commissioner (Appeal), State Tax, Raipur, in First Appeal No. 56/GST/2025, in the case of M/s Nalwa Steel and Power Limited, Raigarh (C.G.), whereby the appeal preferred by the appellant was disallowed.

2. Due to involvement of legal issue, this appeal has been heard and decided by Division Bench**.**

3. **The brief facts of the case** are that the appellant supplied MS TMT Bars in transport vehicle no-CG-04 PQ -5501 on 10.11.2024 from Raigarh (Chhattisgarh) to Indore (M.P.). The vehicle was inspected by State Tax Officer on 10.11.2024 at 2.58 P.M. The officer asked documents from in charge of vehicle. Mr. Asharam driver presented invoice, e-way bills. Driver gave the statement that MS TMT Bars are transported from Nalawa Steel and Power Limited to Indore M.P. The State Tax Officer found that the invoice has been issued Jindal Steel and Power Limited and e way bills have been generated by M/S Gupta and Sons Indore. He found discrepancies about loading plant and documents. According to Tax Officer invoices have not been issued by actual seller and e-way bills were not generated by the actual seller, therefore, he detained the vehicle under section 129 (1) (a) GST Act and issue notice GST MOV 09. He assessed taxable value of goods Rs.1782082/- on the basis of invoice. The State Tax Officer assessed CGST Rs.160382 /- and SGST Rs.160382 /- and demand of penalty CGST Rs320770. /- and SGST Rs. 320770/-. According to provision of section-129(1)(a) GST Act.DRC-07 has been issued on 24.09.2025. Appellant deposited above penalty in compliance of above order therefore vehicle has been released.

   Aggrieved by the aforesaid order, the appellant preferred a first appeal, which was dismissed as stated above.

4. **The main grounds of appeal**, as advanced by the appellant, are that the learned Appellate Authority failed to consider and deal with submissions made by the appellant on 11.11.2024. It is further contended that the learned Appellate Authority erred in confirming the imposition of penalty equivalent to twice the amount of tax under Section 129(1)(a) of the GST Act, solely on the ground that the invoices were not issued by actual seller and e way bills were not generated by actual seller. It is contended that, at the time of inspection, the driver produced the GST invoices and e-way bills before the Inspecting Authority. It is further submitted that the appellant relied upon C.B.I.C. Circular No. 64 dated 14.09.2018, wherein guidelines have been issued regarding proceedings under Section 129 of the GST Act in cases where the goods are

accompanied by the requisite documents and e-way bill. According to the appellant, the said circular supports the contention that proceedings under Section 129 ought not to be initiated merely on account of non-generation of invoices and e way bill by actual seller in the absence of any intention to evade tax. It is a case of bill to ship to transaction but learned Assessing Officer as well as Appellate Authority did not consider the case of appellant as per legal position. Appellant has taken following grounds of appeal; -

1. Impugned order vitiated by non-consideration of material submissions
2. Impugned order is invalid as goods were accompanied with vailed invoice and e way bill.
3. SCN and OIO issued without following proper procedure prescribed under the law.
4. Burden of proof alleging movement of goods without relevant supporting documents is on department.
5. Failure to consider submissions made during physical
6. The demand of penalty under section 129 of GST Act is untenable.
7. Penalty not imposed as per general disciplines related to penalty under section 126 of GST Act.

Appellant elaborated above grounds in details also relied upon various judicial precedents in support of the grounds raised in the appeal. If considered necessary, the same shall be dealt with at the appropriate stage of this order. On the aforesaid grounds, the appellant contends that the impugned order is unsustainable in law and on facts and that the appeal deserves to be allowed.

5. **The respondent denied** all the material statements of fact and grounds of appeal raised by the appellant. According to the respondent, the Appellate Authority passed a speaking and reasoned order after duly considering the material available on record, and all findings were recorded on the basis of the documents and evidence produced in the proceedings. the appellant had failed to comply with Rule 138(10) of the CGST Rules, 2017. The respondent further denied the allegation that the impugned order was passed without application of mind. Driver merely stated that the goods were being transported from Raigarh to Indore and produced the invoice along with the e-way bill. The judgments and decisions relied upon by the appellant are distinguishable on facts, and the respondent has specifically pointed out the distinguishing features of the present case in his reply with reference to each of the authorities cited by the appellant. It was further submitted that Circular No. 64 dated 14.09.2018 does not extend any benefit to the appellant, as the present case relates to non-generation of invoices and e-ways bills by actual seller and does not fall within the circumstances contemplated by the said Circular. The respondent further submitted that the Hon'ble Supreme Court and various High Courts have held that the intention to evade tax is a relevant consideration while exercising powers under Section 129 of the GST Act. However, such intention cannot be treated as an inflexible or mandatory requirement in every case, particularly where the contravention is not merely a minor or technical error but a substantive violation. Place of dispatch declared in the e-way bills in the Raigarh Chhattisgarh 496001 whereas the actual movement was commenced from the gate of factory of appellant long before the e-way bills came in the existence therefore vitiating part-A and part-B of e-way bill hance, there is no valid e-way bill accompanied of the goods. Goods had already been loaded and dispatched from Raigarh under invoice dt. 09.11.2024 but the e-way bills generated on 10.11.2024 9.57 AM and 10.00 AM after the movement actually commenced. SCN and Order in Original issued after following proper procedural.

Accordingly, the respondent prayed that the appeal, being devoid of merit, be dismissed

6. **The argument of the learned C.A.** appearing on behalf of the appellant is that the matter related to bill to ship to transaction, therefore, being a transporting of goods Gupta and Sons generated e way bill and appellant generated invoices bill to Jindal Steel and Power Ltd and on his direction ship to Gupta and Sons. Appellant submitted detailed reply on 11.11.2024 but the reply was not considered by Assessing Officer and Appellate Authority. Opportunity of being heard was not provided to appellant. Learned C. A. also citated various rulings in grounds of appeal. If we find it necessary, we will discuss it in proper place of this order.
7. **The argument of the learned authorized representative** appearing on behalf of the respondent is that the e way bill has not been generated by appellant and invoices has also not been generated by him. It is clear violation of rule 138 of GST Rules, 2017. Opportunity of being heard was provided to appellant but he did not avail it. Appeal deserved to be dismissed.
8. **Question of Law involved in the appeal is**
    1. **Whit is bill to ship to transaction?**
    2. **Whether case of appellant is covered under above transaction?**
    3. **If yes, are the penalties under Section 129(1)(a) of the GST Act not maintainable in facts and circumstances of this case?**

REASONS OF CONCLUSION

Question no-1

9. **Section-10(1)(b) of integrated goods and services tax, 2017 is as follows: -**

    Place of supply of goods other than supply of goods imported into, or exported from India

    (1) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under: -

    (b) where the goods are delivered by the supplier to a recipient or any other person **on the direction of a third person**, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.

10. It is evident from the provisions of Section 10(1)(b) of the IGST Act that the transaction involves three distinct persons, namely:

    1. **The Consignor** – being the supplier or original seller of the goods;
    2. **The Intermediate Person** – being the third person or intermediary to whom the goods are billed or transferred; and
    3. **The Consignee** – being the ultimate recipient of the goods.

11. In such transactions, the principal place of business of any of the aforesaid three persons may be situated either within the State or outside the State. Where the place of business of any one of the three persons involved in the transaction is situated in a State different

from that in which the relevant place of supply is situated, the transaction would qualify as an inter-State supply, and Integrated Goods and Services Tax (IGST) would accordingly be leviable. Conversely, where the relevant places of business and the place of supply are situated within the same State, the transaction would constitute an intra-State supply, attracting Central Goods and Services Tax (CGST) and State Goods and Services Tax (SGST), subject to the applicable provisions of the GST law.

12. In a **Bill-to/Ship-to transaction**, the intermediate person directs the consignor or original supplier to mention the intermediate person as the buyer or "Bill-to" party in the tax invoice, while directing the supplier to dispatch the goods directly to the ultimate recipient or consignee, who is mentioned as the "Ship-to" party. Such an arrangement is commonly adopted where the intermediate person does not have the goods in his own stock. In such circumstances, the intermediate person purchases the goods from the original supplier and instructs the supplier to deliver the goods directly to the premises of the ultimate recipient. The intermediate person thereafter raises a separate invoice upon the ultimate recipient in respect of the onward supply. In certain commercial circumstances, the intermediate person may also choose not to disclose the identity of the original supplier to the ultimate recipient and, accordingly, may retain the invoice issued by the original supplier and issue a separate invoice to the recipient for the onward supply. The aforesaid arrangement is commonly referred to as a **"Bill-to/Ship-to transaction"** and constitutes a recognised commercial practice. Merely adopting such a mode of transaction does not, by itself, constitute a contravention of the provisions of the GST law, provided that the transactions are genuine, duly documented, appropriately accounted for, and the applicable tax liability is duly discharged in accordance with law.

Question no-2

13. It is an admitted fact that Mrs. Vijay Kaiwart, ACT, Raigarh Circle-2, intercepted and inspected vehicle bearing registration No. CG-04-PQ-5501 on 10.11.2024 at about 2:58 PM, near Rinku Dhaba, Village Urdana, Chhattisgarh. During the course of inspection, the officer called upon the driver to produce the relevant documents pertaining to the goods being transported. In compliance with the said direction, the driver, Shri Asharam, produced the tax invoices and e-way bills and stated that he was transporting MS TMT bars from Nalwa Steel & Power Ltd., Raigarh, to Indore, Madhya Pradesh.

14. The Tax Officer noticed two discrepancies, namely, that the actual supplier had neither issued the tax invoice nor generated the corresponding e-way bill at the time when the goods were being transported. On the basis of these alleged discrepancies, proceedings were initiated under **Section 129(1)(b) of the GST Act**, and a penalty equivalent to twice the amount of tax was imposed.

15. We have carefully perused the record and the documents produced by the appellant. The appellant produced Tax Invoice Nos. RV-9000008383 and RV-900000384, both dated 09.11.2024, as Annexure-4. In both invoices, under the column "Name and Address of Customer (Bill to)", GSTIN 22AACJ7097D1ZQ has been mentioned. It is an undisputed fact that the said GSTIN pertains to Jindal Steel and Power Limited. Further, under the column "Name and Address of Consignee (Shipped to)", GSTIN 23AAFFG3619L1ZF has been mentioned. It is likewise undisputed that the said GSTIN pertains to Gupta and Sons. Both invoices also contain the details of the transporter and

vehicle bearing registration No. CG-04-PQ-5501, which was admittedly intercepted by the Tax Officer on 10.11.2024. It is further evident from the record that both the aforesaid invoices were e-invoices, duly generated prior to the interception of the vehicle. Thus, the documentary record establishes that the goods were accompanied by tax invoices and e way bill.

16. The appellant also produced Tax Invoice Nos. RV-1000081759 and RV-1000081760, both dated 09.11.2024, as Annexure-5. In both invoices, under the column "Name and Address of Customer (Bill to)", GSTIN 23AAFFG3619L1ZF has been mentioned. It is an undisputed fact that the said GSTIN pertains to Gupta and Sons. Likewise, under the column "Name and Address of Consignee (Shipped to)", the same GSTIN, i.e., 23AAFFG3619L1ZF, has been mentioned, which also pertains to Gupta and Sons. Both invoices contain the details of the transporter and vehicle bearing registration No. CG-04-PQ-5501, which was admittedly intercepted by the Tax Officer on 10.11.2024. It is further evident from the record that both the aforesaid invoices are **e-invoices**, duly generated on 09.11.2024, i.e., prior to the interception of the vehicle.

17. The appellant further produced E-Way Bill Nos. 651809671830 and 631809671326, as Annexures-6 and 7, respectively. Both the aforesaid e-way bills were generated by Gupta and Sons on 10.11.2024 at 09:57 AM and 10:00 AM, respectively. In E-Way Bill No. 651809671830, Invoice No. RV-1000081759 dated 09.11.2024 is mentioned, whereas E-Way Bill No. 631809671326 contains reference to Invoice No. RV-1000081760 dated 09.11.2024. Thus, the e-way bills correspond to the tax invoices produced by the appellant and were generated on the date of transportation, prior to the interception of the vehicle on 10.11.2024.

18. The sole ground recorded by the Tax Officer for interception of the vehicle was that "the actual seller had not generated the tax invoice and e-way bill at the time of transportation of the goods."

19. we have considered above ground. **Rule 138(2) of CGST Rules, 2017** is as under: -

    (2) Where the goods are **transported** by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e way bill in **FORM GST EWB -01** electronically on the common portal after furnishing information **in Part B FORM GST EWB -01.**

20. It is clear from the aforesaid provision that, depending upon the circumstances, the consignor or the consignee, as the case may be, who causes the movement of goods is required to generate the e-way bill. In the present case, the tax invoices specifically mention "Party Transporter" and the documentary evidence on record establishes that Gupta and Sons was the person responsible for arranging the transportation of the goods. Accordingly, Gupta and Sons was entitled to generate the requisite e-way bills and, in fact, duly generated E-Way Bill Nos. 651809671830 and 631809671326 on 10.11.2024, prior to the interception of the vehicle.

    In these circumstances, the allegation that the actual seller had failed to generate the e-way bill cannot, by itself, constitute a valid ground for interception or detention of the goods, particularly when the requisite e-way bills had in fact been generated by the person responsible for causing the movement of the goods.

21. Tax Invoice Nos. RV-9000008383 and RV-9000008384 were generated by the appellant in the course of a Bill-to/Ship-to transaction. In the said invoices, Jindal Steel and Power Limited was mentioned as the "Bill-to" party, whereas Gupta and Sons was mentioned as the "Ship-to" party. The said manner of invoicing is consistent with the nature of the Bill-to/Ship-to transaction.

22. Thereafter, **Jindal** Steel and Power Ltd. generated Tax Invoice Nos. RV-100001759 and RV-100001760, wherein Gupta and Sons was mentioned both as the "Bill-to" party and as the "Ship-to" party. Thus, the invoices generated by Gupta and Sons correctly reflected the details of the recipient and the place to which the goods were to be delivered.

23. A question may arise as to why **Jindal Steel and Power Limited** generated the invoices showing Gupta and Sons as the "Bill-to" party and the same/different person as the "Ship-to" party. In this regard, it is relevant to note that, in commercial transactions, an intermediate purchaser or third-party trader may, for legitimate business reasons, prefer not to disclose the identity of the original supplier to the ultimate recipient. This may be intended to preserve the intermediary's commercial relationship with its customer and to prevent the customer from directly approaching the original supplier for future purchases. Accordingly, the intermediary may retain the original **Bill-to/Ship-to invoice** issued by the supplier and, in turn, issue a separate tax invoice to the ultimate recipient in respect of the onward supply. Such an arrangement, by itself, does not constitute any illegality or contravention of the provisions of the GST law, provided that the underlying transactions are genuine, duly documented, and the applicable tax liabilities are duly discharged. In the present case, the allegation regarding non-generation of the tax invoice by the actual supplier, therefore, cannot be sustained merely on the ground that the goods were directly delivered to the ultimate recipient. It is further significant that **all four invoices are e-invoices**, duly generated electronically, and were accordingly available on the GST portal and within the knowledge of the tax authorities. Thus, the existence and particulars of the said invoices were capable of verification from the departmental records themselves.

24. The appellant submitted a detailed reply dated 11.11.2024, specifically explaining the nature of the transaction as a Bill-to/Ship-to transaction and setting out the relevant factual and documentary circumstances in support thereof. According to the appellant, the said reply and the explanation furnished therein were neither duly considered nor dealt with by the Assessing Officer or the First Appellate Authority while passing their respective orders.

25. Pursuant to the direction of this Appellate Tribunal, the appellant further produced the e-mail correspondence exchanged between Gupta and Sons and Jindal Steel and Power Limited relating to the purchase transaction, along with documents pertaining to the factory-gate entry and movement of the vehicle from the appellant's premises. The factory-gate records indicate the departure of the vehicle from the appellant's premises at 2:20 PM on 10.11.2024. These documents lend support to the appellant's contention regarding the actual movement of the goods and the nature of the transaction.

26. Having regard to the documentary evidence available on record, including the tax invoices, e-invoices, e-way bills, correspondence between the concerned parties, and the factory-gate records, and upon consideration of the transaction as a whole, we are of the considered opinion that the transaction in question is in the nature of a Bill-to/Ship-to transaction. Accordingly, the allegation that the actual supplier had failed to generate the requisite invoice and e-way bill cannot, in the facts and circumstances of

the present case, be sustained. We, therefore, **answer Question No. 2 in favour of the appellant**.

On Question number 3

27. As we discuss above the case of appellant is covered under theory of bill to ship to transaction therefore, the provision of section 129 of GST Act is not applied.

28. It is pertinent to note that the vehicle was intercepted near Rinku Dhaba, which, according to the location details as per google is approximately 15 to 20 kilometres from the premises of Nalwa Steel and Power Limited. The appellant also produced documentary evidence relating to the factory-gate entry and movement of the vehicle. The said records indicate that vehicle bearing registration No. CG-04-PQ-5501 departed from the appellant's factory premises at 2:20 PM on 10.11.2024, whereas it was intercepted at 2:58 PM on the same day. The timing and proximity of the interception to the place of dispatch are relevant circumstances supporting the appellant's contention regarding the genuine movement of the goods.

29. Though appellant raise the point regarding proof of intent to evade tax. We are not considering this point in detail because in this appeal, we find that all necessary requirements have been complained with by the appellant.

30. In view of the foregoing discussion and having regard to the facts and circumstances of the case, the documentary evidence available on record, we are of the considered opinion that the impugned action is not sustainable in law.

31**.**Accordingly, the **appeal** deserves to be allowed and **is hereby allowed,** along with all consequential reliefs to which the appellant may be entitled in accordance with law.

(Pradeep Kumar Vyas) (Chandra Bhushan Singh)

Dated: 13.10.2026