

GSTAT

State Bench Raipur

Division Bench Court No. Court I

APL/70/RPR/2026

SRS TRADERS

.....Appellant

Versus

**COMMISSIONER. STATE GOODS & SERVICE TAX,
COMMISSIONER, 6TH FLOOR CBD BUILDING ATAL NAGAR
NAYA RAIPUR CHHATTISGARH & ORS.**

.....Respondent

Quorum

Hon'ble Pradeep Kumar Vyas, Member (Judicial)

Hon'ble Chandra Bhushan Singh, Member (Technical)

Counsel for Appellant

**SHRI SHIV KUMAR SONI, ADVOCATE
SHRI PALASH SONI, ADVOCATE
MS. RADHIKA JHINJHUWADIA, ADVOCATE**

Counsel for Respondent

**MR. ASHUTOSH MISHRA,
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: Yes

Order reference no.: ZN220051026000096H

Date of order: 13/10/2026

1.	GSTIN/Temporary ID/UIN - 22ALEPJ8478Q1ZE	
2.	Appeal Case Reference no. - APL/70/RPR/2026	Date - 18/06/2026
3.	Name of the appellant - SRS TRADERS, srstraders5555@gmail.com, 9669501000	
4.	Name of the respondent - 1. Office of the State Tax Commissioner, Nava Raipur, Atal Nagar, Chhattisgarh,	

	cctd.cg@gov.in, 8962326279 2. COMMISSIONER. STATE GOODS & SERVICE TAX	
5.	Order appealed against -	
	(5.1) Order Type - Other order	
	(5.2) Ref Number - 66/2019 (GST PENALTY)	Date - 04/09/2020
6.	Personal Hearing - 13/10/2026 22/09/2026 18/09/2026 07/09/2026 30/07/2026	
7.	Order in brief - The original and appellate demands are set aside. The matter is remanded because the interception location and actual movement remain uncertain. Ultimate liability is open, but the MOV-07 non-service plea is rejected under Section 160(2), as the notice was acted upon. The authority shall determine whether the movement was exempt within Raipur district or had commenced towards Banda, applying the State notification to the actual route and destination. Section 10(1)(b) permits onward supply without receipt or unloading by the intermediary but does not establish when the destination changed. A halt alone does not end movement; later e-way bills cannot cure an earlier mandatory omission. Conflicting records prevent confirmation but do not establish exemption. Later returns show accounting, not necessarily compliance at interception. Mens rea need not be independently proved under Section 129, but penalty is not automatic. The authority shall examine the bona fide explanation and whether any breach was substantive or technical. Proceedings shall resume from the existing reply within the original notice's scope, without reopening service. Adverse material shall be disclosed with an opportunity to respond, followed by personal hearing and a reasoned order. Release payment does not waive appeal and shall be reconciled, credited or refunded according to fresh adjudication.	
Summary of Order		
8.	If demand order then whether demand quantified: No	
9.	For Other orders and Demand orders which are not quantified:	
Issues as raised by	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal

proper officer		
Any other	Upheld the Impugned order of the adjudicating authority.	Remanded to the Original Authority
10.	If remanded with directions:	
	a) Remanded to: Adjudicating Authority	
	b) Directions subject to which remanded, if any: Order-in-Appeal No. 66/2019 (GST Penalty) dated 04.09.2020 and Order No. 39 dated 05.09.2019 in FORM GST MOV-09 are set aside. Under Section 113(1), the matter is remanded to the Assistant Commissioner, State Tax, Circle 9, Division 2, Raipur, or its lawful successor, from consideration of the appellant's representation dated 04.09.2019 on the existing MOV-07. Adjudication shall remain confined to the original Section 129 allegation and demand. The non-service plea is rejected and shall not be reopened. The authority shall furnish legible copies of all contemporaneous material relied upon, including the MOV forms, driver's statement, interception records and any enclosure to MOV-09. Both parties may submit explanations and authentic evidence concerning the original events, subject to disclosure and a fair opportunity to respond. No adverse material shall be used without such opportunity. After granting a personal hearing, the authority shall consider the appellant's representation, explanation and plea of absence of intention to evade tax, in light of the discussion hereinabove, and pass a fresh, reasoned order addressing the defence and whether any established lapse was substantive or technical. The release payment of ₹3,30,544 and any statutory pre-deposit shall be verified, reconciled and credited under the appropriate heads without duplication. If the demand does not survive, consequential adjustment or refund shall follow in accordance with law. Neither release payment nor subsequent return filing shall, by itself, determine liability. Fresh adjudication shall, as far as practicable, be completed within three months of receipt of this order.	

Signature

Place: RAIPUR

Date: 13.10.2026

RAIPUR Chandra Bhushan Singh
Designation: Member
Jurisdiction: Raipur

ORDER**PER: C. B. SINGH, MEMBER (TECHNICAL)**

1. The present appeal under section 112(1) of the Chhattisgarh Goods and Services Tax Act, 2017 (“CGGST Act”), read with the corresponding provisions of the Central Goods and Services Tax Act, 2017 (“CGST Act”) and, insofar as applicable, section 20 of the Integrated Goods and Services Tax Act, 2017 (“IGST Act”), challenges Order-in-Appeal No. 66/2019 (GST Penalty) dated 04.09.2020 passed by the Joint Commissioner (Appeals), State Tax, Raipur. That order affirmed Order No. 39 dated 05.09.2019 in FORM GST MOV-09 of the Assistant Commissioner, State Tax, Circle 9, Division 2, Raipur. The dispute concerns 30 MT of TMT bars carried in vehicle UP-90-T-7647 on 01.09.2019 and the demand under section 129, as then applicable, of CGST ₹82,636 and SGST ₹82,636 (tax ₹1,65,272), with an equal aggregate penalty of ₹1,65,272; total ₹3,30,544.

FACTUAL MATRIX AND PROCEDURAL HISTORY

2. M/s Hi-Tech Power & Steel Ltd., Parsada, Tehsil Tilda, Raipur district, issued Invoice No. 2019-20/4184 dated 01.09.2019 to the appellant for 30 MT of TMT bars. The invoice identifies SRS Traders as buyer and consignee at Raipur but gives the destination as “C.G.” without identifying the point of unloading. No e-way bill was generated for this supplier-to-appellant leg. The appellant says the goods were originally meant for its place of business in Raipur district and relies upon State Notification No. F 10-31/2018/CT/V(46) dated 19.06.2018. The original transporter’s goods receipt in the record is substantially unfilled and unnumbered.
3. The appellant issued two further invoices dated 01.09.2019, No. 797 to Raj Traders, Banda, Uttar Pradesh (10.040 MT), and No. 798 to A.K. Brothers, Banda (19.960 MT). The total and diameter-wise quantities tally with the supplier’s invoice. It generated two e-way bills for vehicle UP-90-T-7647 at 3:01 p.m. and 3:07 p.m., with Banda destinations and the transaction type “Regular”. The transporter’s corresponding later goods receipts, Nos. 3695 and 3696, contain details absent from the original receipt.
4. Interception took place on 01.09.2019, but the precise time, site and nature of the movement then underway are disputed. The appellant’s appeal memorandum describes interception at about 3:00 p.m. and a halt near Simga/Bhatapara, Balodabazar; its letter dated 04.09.2019 places the stopped vehicle near an Indian Petrol Pump at **Sankara** and asserts a Raipur-bound journey. The appellate order refers to **Simga** and recounts *the driver describing a Banda-bound movement*. The appeal memorandum itself recounts the driver referring to Banda while documents were under preparation. The primary driver statement and contemporary material fixing the site and time are not identifiable in the appeal record.
5. The appellant made a written representation dated 04.09.2019. FORM GST MOV-09, dated 05.09.2019, sets out the demand and bears the notation “ORDER ENCLOSED”, but a separate reasoned enclosure has not been identified in the material examined. FORM GST MOV-05 recites MOV-06 detention and service of MOV-07; the MOV-07 itself is not available in this record. *On 05.09.2019 the appellant paid ₹3,30,544 to secure release.* A DRC-07 summary was uploaded on 13.09.2019; its description of the date of the underlying order differs from the available MOV-09.

6. The appellant instituted the first appeal in December 2019, which was dismissed on 04.09.2020. Paragraphs 9–10 of Annexure 1 to APL-01 acknowledge issuance of a notice and submission of a reply dated 04.09.2019, without expressly identifying the notice as MOV-07. The present appeal was filed in June 2026. The respondent placed a counter-statement dated 01.09.2026 and FORM GST APL-06 on record.

PLEADINGS OF THE PARTIES

7. The appellant submits that the original intra-district movement from Hi-Tech to SRS required no e-way bill; only during transit were orders received from the Banda buyers, whereupon the driver was directed to stop and the two invoices and e-way bills were prepared before onward movement. It relies on the supplier's invoice, the subsequent invoices/e-way bills, its letter of 04.09.2019 and September 2019 GSTR-1 and GSTR-3B. It disputes the recorded time and place of interception, the procedural regularity and reasoning of MOV-09, and errors concerning the date, vehicle and section 122(1)(ii) in the appellate order. It seeks setting aside and consequential refund. Its own pleadings, however, also describe direct delivery instructions towards Banda and the driver's Banda-related statement.
8. The respondent maintains that goods were in movement without a mandatory e-way bill and that subsequently generated documents and return disclosures cannot retrospectively cure the contravention. It supports the section 129 tax and penalty, describes the release payment as voluntary and opposes refund. It relies upon the adjudication and first appellate findings.

SUBMISSIONS AT FINAL HEARING

9. The appellant reiterated the two-stage movement and State notification pleas and stated that the driver had been asked to halt at Simga; Sankara was also referred to during the hearing. It accepted that the first goods receipt was unfilled and unnumbered and the subsequent receipts contained full particulars. When asked how the differently sized bars were separated into the exact quantities of 10.040 MT and 19.960 MT without unloading, it offered no satisfactory explanation. It relied upon *Shyam Sel & Power Ltd. v. State of U.P.*, (2023) 2 HCC (All) 198, and *Kamal Envirotech (P) Ltd. v. Commr. of GST*, (2025) 139 GSTR 181. The appellant invokes the absence of intention to evade tax in *Shyam Sel and Power* and specifically relies on paragraph 51 of *Kamal Envirotech* concerning moderation, restraint and reasonableness in the levy of penalties. The appellant also expressly submitted at final hearing that "MOV-07 was not served".
10. It is admitted that interception preceded generation of the onward e-way bills, while the appellant disputed whether the recorded time was about 2:00 p.m. or 3:00 p.m. The respondent accepted that the reference to section 122(1)(ii) in the appellate order was inadvertent. Neither side furnished an independently verifiable contemporaneous record conclusively fixing the point and time of interception.

ISSUES FOR DETERMINATION

11. The questions for determination are:
 - (i) what movement, route and destination were operative at interception, whether the original same-district movement and any subsequent diversion to Banda are established, and consequently whether an e-way bill was required;

- (ii) whether the plea of non-service of MOV-07 is sustainable, whether the appellant's written representation dated 04.09.2019 was duly considered, whether the hearing and speaking-order requirements were met, and whether the material errors in the Order-in-Appeal permit its affirmation;
- (iii) whether the dispute can fairly be decided finally on this appellate record or calls for a confined remand and, if so, to which authority; and
- (iv) what treatment the ₹3,30,544 already paid should receive. The issues are considered together to avoid repetition.

STATUTORY FRAMEWORK AND RELEVANT AUTHORITIES

12. Section 68 of the CGST/CGGST Acts provides for inspection of goods in movement. Rule 138 requires the prescribed information to be furnished and the e-way bill to be generated before commencement of the movement for which it is required; rule 138A specifies the documents to be carried. The requirement relates to the actual consignment, vehicle and movement, rather than merely to the existence of a tax invoice. Generation after commencement does not by itself confer retrospective compliance.
13. Chhattisgarh Notification No. F 10-31/2018/CT/V(46) dated 19.06.2018, issued under rule 138(14)(d), read with Corrigendum No. F 10-31/2018/CT/V(49), exempts intra-State movements subject to its stated exception for specified goods moving from one district to another where consignment value exceeds ₹50,000. The corrected list includes iron and steel/articles of iron and steel under headings 7201 to 7217, besides specified headings under Chapter 73. Thus, a genuine movement commencing and ending within Raipur district stands on a different footing from inter-district or inter-State movement. The notification must be applied to the destination and character of the actual movement; registration addresses or a temporary halt are not by themselves determinative.
14. Section 10(1)(b) of the IGST Act recognises delivery on the direction of a third person, given before or during movement, for place-of-supply purposes; physical delivery to an intermediate purchaser is not invariably necessary. That provision does not itself alter an existing transport instruction or establish that one physical movement has ended or dispense with the e-way bill applicable to the subsequent movement being undertaken. The original carrier document, subsequent destination instructions and their timing are therefore relevant evidence, without insisting upon unloading as a legal prerequisite to a genuine onward sale.
15. Under section 129 as applicable in September 2019, detention for transport/storage in transit in contravention of the Act or Rules was followed, where the owner came forward, by release on payment of applicable tax and a penalty equal to 100% of that tax under section 129(1)(a). Section 129(3) required a notice specifying the tax and penalty and an order determining them; section 129(4) required an opportunity of hearing. Section 129(5) dealt with the effect of payment on the proceedings, but does not dispense with adjudication of written objections or the statutory appellate remedy. Circular No. 41/15/2018-GST dated 13.04.2018 explains the MOV procedure and speaking order; Circular No. 64/38/2018-GST dated 14.09.2018 distinguishes absence of a required e-way bill from listed minor errors in one otherwise available.
16. Section 169 prescribes the modes of service. *Section 160(2) of the CGST Act* and the corresponding CGGST provision preclude questioning service where the recipient has

already acted upon the notice, or where service was not questioned in the earlier proceedings pursuant to it.

17. In *Asian Switchgear (P) Ltd. v. STO*, (2024) 123 GSTR 175 (Hon'ble Calcutta High Court, Division Bench), the Hon'ble Court, in paragraphs 36–39, distinguished the absence of a separate mens rea requirement for civil statutory penalties from the duty under sections 129(3) and (4) to examine the explanation and give reasons, that means, penalty is not automatic.
18. In *Shyam Sel and Power (supra)*, paragraphs 9–12, the goods travelled with an invoice, consignment note and an e-way bill generated for the identified journey. The purchaser cancelled the bill without informing the supplier; the supplier explained the circumstances, and no intention to evade was found. The Court treated the lapse as minor and, reading sections 129 and 130 together, expressly held intention to evade necessary. The decision thus states an express legal proposition as well as a conclusion on its particular facts. Here, no e-way bill was generated for the initial leg, and its claimed exemption, destination and subsequent diversion remain to be established on the primary record; the original goods receipt is substantially unfilled, and the Banda bills were generated close after the alleged interception time. The issue is potentially absence of a mandatory movement document, not cancellation by another dealer of an already generated bill for an established journey. These differences prevent automatic exoneration; they do not themselves prove evasion.
19. In *Kamal Envirotech (supra)*, paragraph 51 requires penalties to be guided by the section 126 principles of “moderation, restraint and reasonableness”. Read with paragraphs 19, 36–38 and 45–50, the decision rejects automatic section 129 liability for every documentary lapse; it also examines the effect of section 126(6). The cases involved incomplete e-way-bill particulars or an extension issue, with payment of the goods' taxes undisputed. In *Kamal's case*, import IGST was already paid, Part A existed and the missing Part B was rectified. Here, the existence of an exempt initial movement and the commencement of a documented onward movement require findings. Subsequent return disclosure is relevant but does not establish the state of compliance at interception. Therefore, reasoned examination of the actual breach and the bona fide explanation is required; it does not establish that this disputed movement was exempt or that complete absence of a required bill is necessarily a minor error.
20. The broader mens rea proposition in *Shyam Sel and Power* and *Kamal Envirotech's* rejection of an automatic statutory-penalty approach are not identical to *Asian Switchgear's* reasoning. On the requirement of independently proving intention, we prefer *Asian Switchgear: section 129(1) predicates detention on transport in contravention, whereas sections 130(1)(i) and (iv) expressly refer to intention to evade*. Nevertheless, the explanation and the nature and seriousness of the alleged breach require adjudication; absence of an independent mens rea requirement does not make penalty automatic. *CST v. Satyam Shivam Papers (P) Ltd.*, (2022) 14 SCC 157, relied upon in *Shyam Sel*, expressly concerned an established delay beyond the taxpayer's control and no fault or evasion inferable on those facts. Such an explanation cannot be presumed here. We give paragraph 51 effect when deciding whether section 129 is attracted.
21. In *Shree Radhemani Multitrade (P) Ltd. v. State of Chhattisgarh*, 2025 SCC OnLine Chh 3375, the Hon'ble jurisdictional High Court declined to interfere at the show-cause

stage on the facts before it; that decision does not dispense with examination of the defence in a completed adjudication.

22. Section 107(11) does not authorise the first appellate authority to send a case back to the adjudicating authority. Section 113(1), by contrast, empowers this Tribunal to refer the matter directly to the original adjudicating authority, with directions and, where necessary, additional evidence, for fresh adjudication. The proper use of that power here turns upon whether material omissions in the primary record prevent a reliable merits determination, rather than upon a desire to allow a new case to be made.

DISCUSSION AND FINDINGS

23. Two materially different hypotheses arise. If the goods had been dispatched for a genuine Raipur-district destination and were still on that movement at interception, the notification defense must be decided on that basis; a Banda e-way bill not yet required for an uncommenced onward movement cannot be retrospectively demanded. Conversely, if the movement was intended for an inter-district/inter-State destination from inception, or an effective diversion towards Banda had already taken place and the relevant movement had begun, generation of the two Banda e-way bills at 3:01 and 3:07 p.m. would not retrospectively validate an earlier omission. Merely stopping a loaded vehicle does not necessarily terminate an existing movement or create a fresh commencement point. Neither hypothesis may be assumed from the later invoices alone. The appellant's no-intent plea must accordingly be evaluated on the established movement, original instructions, timing of the onward documents and the explanation in its letter dated 04.09.2019. Neither intention to evade nor its absence can be inferred solely from vehicle registration, the driver's residence or later return filing. Even on the appellant's preferred reading of the cited judgments, a finding of an innocent, minor lapse cannot precede resolution of these primary facts. Any adverse inference must identify the proved circumstances supporting it, confront the appellant's explanation and remain within the original allegation. The remand thus requires express consideration of the plea, without prejudging either bona fides or liability.
24. The supplier's invoice and the appellant's letter dated 04.09.2019 support consideration of its asserted Raipur-district destination, but the invoice gives only "C.G." as destination and the original unnumbered/unfilled goods receipt does not fix the unloading point, route or consignee instruction. The assertion that goods would be delivered to the appellant's place of business also raises a legitimate factual question as to where and how 30 MT of steel was proposed to be received or unloaded. No contemporaneously timed purchase orders, messages or transport directions establishing the change to Banda have been identified in the appeal record. These gaps do not prove that the later sales were fictitious, but materially affect proof of the movement in progress.
25. The two outward invoices together reconcile the 30 MT consignment, and the two later goods receipts contain substantially fuller details. Their e-way bills were, however, marked "Regular", and the appellant could not explain at final hearing the exact diameter-wise allocation into 10.040 MT and 19.960 MT without unloading. These are matters for evidentiary appraisal along with the carrier's original instructions and any contemporaneous change of consignee or destination. An onward sale can be genuine without physical unloading; that proposition does not answer the separate rule 138 question of when the transport movement requiring the onward e-way bills commenced.

26. The divergence concerning the place and time of interception is material. The appellant's letter dated 04.09.2019 refers to Sankara near an Indian Petrol Pump, whereas its appeal memorandum describes the halt and inspection as having occurred near "Raipur, Simga, Bhatapara, Baloda Bazar". Simga was also referred to during the final hearing. The first appellate order places the interception at Simga and records that, according to the driver's statement, the goods were destined for Banda. The adjudicating authority must ascertain the precise place of interception, the district in which it occurred and the route actually followed, and evaluate their bearing on the appellant's claim regarding the original destination and the alleged subsequent diversion towards Banda. *Although the vehicle was registered in Banda, Uttar Pradesh, and the driver was also a resident of Banda, these established circumstances, while relevant, do not by themselves establish the destination of the particular consignment or the stage at which any diversion took effect.*
27. The time is similarly uncertain. The appeal memorandum suggests about 3:00 p.m., close to the two e-way bill timestamps, whereas the scan of MOV-09 contains an altered time entry and the hearing revealed opposing estimates around 2:00 p.m. and 3:00 p.m. The alteration cannot be attributed to any person without the original; nor can its legal effect be evaluated without the inspection diary, contemporaneous MOV records and any driver statement. The recital of such a statement in the OIA is relevant secondary material but cannot be treated as a substitute for the primary statement where its contents and provenance are contested.
28. The OIA records interception on 17.08.2019 at about 1:45 p.m., although the supplier's invoice, onward e-way bills and detention records relate to 01.09.2019. It also incorrectly identifies the vehicle and refers to section 122(1)(ii), which the respondent conceded to be inadvertent. A clerical error alone need not invalidate an order. In combination here, however, the incorrect chronology is part of the reasoning that the e-way bills followed detention, while the two-stage movement and State exemption claim were not resolved on a reliable evidentiary footing. The appellate conclusion cannot therefore be affirmed simply as a concurrent factual finding.
29. *The appellant's submission at final hearing that MOV-07 was not served requires decision here.* Paragraph 9 of Annexure 1 to APL-01 acknowledges issuance of a notice preceding the section 129(3) demand; paragraph 10 expressly describes the letter dated 04.09.2019 as a reply seeking rejection of that notice and release of the vehicle. Although those paragraphs do not name MOV-07, they concern the notice in this very detention proceeding. MOV-05, filed by the appellant as Annexure A/9, expressly records service of MOV-07 on the person in charge on 01.09.2019; row 9 of MOV-09 also records that date of service. *These recitals are corroborated by the appellant's own pleading and its contemporaneous letter addressing the disputed movement and seeking release.* Read together, they establish issuance of the original section 129(3) notice and that the appellant acted upon it by submitting the reply. Its absence from this appellate record does not outweigh that cumulative evidence. *Section 160(2) consequently bars the service challenge, and the plea of non-service of MOV-07 is rejected.* This finding rests on the notice recitals and the admitted response, not merely on participation, payment for release or a presumed withdrawal; section 160(2) is not being used to supply a notice that never existed. It settles the objection founded on non-service, without affirming the demand or dispensing with consideration of the defense and the hearing required by section 129(4). MOV-09 refers to a reasoned enclosure not identified in the record and does not itself establish consideration of the reply. The

confined remand shall therefore resume from consideration of the representation dated 04.09.2019, on the original notice; *the service question stands decided and shall not be reopened.*

30. The September 2019 GSTR-1 and GSTR-3B support subsequent disclosure and accounting of the two Banda invoices. They do not conclusively establish when those invoices were prepared or which movement was underway when the vehicle was intercepted; nor do they erase a transit contravention, if established. The payment of ₹3,30,544 after the representation of 04.09.2019 was made to obtain release and was thereafter challenged in appeal. In *M/s ASP Traders v. State of U.P.*, 2025 INSC 890, Civil Appeal No. 9764 of 2025, decided 24.07.2025, the Hon'ble Supreme Court held that payment to obtain release, following written objections, neither extinguishes the challenge nor dispenses with a reasoned decision under section 129(3).
31. The Tribunal cannot safely dismiss the appeal on the basis of contested secondary recitals while the original time, location, driver statement and stated enclosure to MOV-09 remain untested. Nor can it annul the entire detention liability on merits merely by presuming the asserted intra-district destination, when the appellant's own route narratives and transport documentation require explanation. The defects involve the contemporaneous basis of the original section 129 proceeding and whether its written defense was addressed. A limited remand to the original adjudicating authority or lawful successor is therefore warranted under section 113(1), with adjudication to resume from consideration of the appellant's letter dated 04.09.2019, rather than a remand only to the first appellate authority.
32. The remand is confined to the original 2019 section 129 proceeding, which shall resume from the stage of consideration of the appellant's representation dated 04.09.2019. The existing MOV-07 shall remain the notice for that adjudication; the Tribunal's rejection of the non-service plea in paragraph 25 binds the remand proceedings. No fresh MOV-07, new allegation or enhanced demand is authorised. Genuinely existing contemporaneous material and pertinent defense evidence may be examined with a fair opportunity to respond, but no post-facto primary record may be created to reconstruct the original events. No final finding is made here that rule 138 was or was not contravened or that the amount paid is ultimately payable or refundable.

CONCLUSION

33. (i) The movement, route and destination operative at interception, the asserted original intra-district movement and the timing of any diversion to Banda cannot reliably be determined on this record; whether an e-way bill was required therefore remains open;
- (ii) The plea of non-service of FORM GST MOV-07 is not admissible under section 160(2) for the reasons in paragraph 29; consideration of the appellant's letter dated 04.09.2019, the opportunity of hearing and any reasoned enclosure to MOV-09 require examination, while the material errors and unresolved chronology in the Order-in-Appeal prevent its affirmation;
- (iii) Neither confirmation nor final exoneration is safe on this appellate record; a confined remand under section 113(1) to the original adjudicating authority or its lawful successor is warranted, with proceedings to resume from consideration of the letter dated 04.09.2019 on the existing MOV-07, without reopening its service or introducing a new allegation; and

- (iv) The ₹3,30,544 paid for release is not a waiver or final determination of liability; it must be verified and reconciled against the fresh determination, with consequential adjustment or refund, if due, in accordance with law. The merits and ultimate financial consequence need to remain open.

OPERATIVE ORDER

For the reasons aforesaid, the appeal is partly allowed in the following terms:

34. Order-in-Appeal No. 66/2019 (GST Penalty) dated 04.09.2020 and Order No. 39 dated 05.09.2019 in FORM GST MOV-09 are set aside. The matter is remanded, under section 113(1), to the Assistant Commissioner, State Tax, Circle 9, Division 2, Raipur, or its lawful successor having jurisdiction. The original section 129 proceeding shall resume from the stage of consideration of the appellant's representation dated 04.09.2019, on the existing MOV-07 and subject to the safeguards below.
35. The plea of non-service of FORM GST MOV-07 is rejected. This issue stands concluded and shall not be reopened in the remand proceedings. However, the exercise shall remain within the original 2019 section 129 allegation and demand, on the existing MOV-07.
36. The adjudicating authority shall first make available to the appellant legible copies of all contemporaneous material proposed to be relied upon (including the MOV forms, the driver's statement, time/location record and any enclosure to MOV-09; No adverse material shall be used without a fair opportunity to meet it.
37. The adjudicating authority shall consider the appellant's explanation, its letter dated 04.09.2019 and the plea of absence of intention to evade tax, in light of the discussion hereinabove, and record independent, reasoned findings on whether any established lapse was substantive or merely technical.
38. The authority shall grant a reasonable opportunity of personal hearing and pass a fresh, reasoned order addressing the appellant's defense. Both parties may submit explanations and authentic evidence concerning the original events, with disclosure to the other party and a fair opportunity to respond.
39. The ₹3,30,544 paid for release and any statutory pre-deposit shall be verified, reconciled and credited under the appropriate heads against the fresh determination, without duplication. If the demand does not survive, consequential adjustment or refund shall be ordered in accordance with law. Neither release payment nor subsequent return filing shall, by itself, determine liability.
40. As far as practicable, **the fresh adjudication shall be completed within three months of receipt of this order**, after giving the appellant a reasonable opportunity of hearing. The appeal stands disposed of in the above terms. There is no order as to costs.

Pronounced in open court on 13.10.2026.

(Pradeep Kumar Vyas)

(Chandra Bhushan Singh)

Dated: 13.10.2026