

GSTAT

State Bench Raipur

Division Bench Court No. Court I

APL/107/RPR/2026

NARMADA DRINKS PVT LTD

.....Appellant

Versus

THE COMMISSIONER, THE COMMISSIONER, STATE TAX
NAVA RAIPUR ATAL NAGAR CHHATTISGARH & ORS.

.....Respondent

Quorum

Hon'ble Pradeep Kumar Vyas, Member (Judicial)

Hon'ble Chandra Bhushan Singh, Member (Technical)

Counsel for Appellant

SHRI BHISHM AHLUWALIA, ADVOCATE
SHRI JITENDRA SINGH KHANUJA, CA
SHRI ROHAN GOYAL, ADVOCATE
MS. AANCHAL NIHLANI, CA
MS. SIMRAN DHANER, 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.: ZN220051026000091H

Date of order: 13/10/2026

1.	GSTIN/Temporary ID/UIN - 22AAACN5880C1ZT	
2.	Appeal Case Reference no. - APL/107/RPR/2026	Date - 23/06/2026
3.	Name of the appellant - NARMADA DRINKS PVT LTD , sankar.rao@ndplcoca-cola.com, 9993025404	
4.	Name of the respondent - 1. Office of the State Tax Commissioner, Nava Raipur, Atal Nagar, Chhattisgarh, cctd.cg@gov.in, 8962326279 2. The Commissioner	

5.	Order appealed against -	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - 1247/GST/E-way Bill/2024	Date - 16/05/2025
6.	Personal Hearing - 13/10/2026 18/09/2026 07/09/2026 30/07/2026	
7.	Order in brief - The order partly allows the appeal, sets aside the original and appellate penalty orders, and directs fresh adjudication. It distinguishes the prima facie requirement of an e-way bill from the separate requirement that penalty be determined through a statutory hearing and reasoned decision. On applicability of the e-way-bill regime, the Tribunal rejects the argument that intra-State movement was exempt. The Chhattisgarh notification retained the requirement for specified beverages moving between districts. The Raipur-to-Fingeshwar movement therefore prima facie required an e-way bill. The alleged portal failure and urgent business need were unsupported by contemporaneous evidence. Invoice preparation and dispatch chronology required scrutiny of the claimed generation attempts and urgency; they did not independently disprove the explanation. The Tribunal consequently declined final exoneration while leaving the explanation’s legally permissible effect for proper adjudication. On procedural validity, Section 129(4) requires an effective opportunity of hearing. The notice allowed time to respond, but adjudication followed before that opportunity could meaningfully operate. MOV-09 contained unselected alternatives and drafting placeholders, without clear consideration of the defence or a completed reasoned determination. These defects affected the substance of adjudication. Applying ASP Traders and the settled requirement of reasons, the Tribunal holds that payment to secure release neither cures defective adjudication nor waives the statutory challenge. The appellant’s absence before the first appellate authority likewise could not validate the original order. The appellate authority failed adequately to address the defective determination and hearing process. Remand to the original adjudicating authority was appropriate because the infirmity originated there. The existing MOV-07 survives, and fresh adjudication must remain within its original scope. The officer must verify the documents actually produced at interception, examine admissible evidence of portal failure and dispatch urgency, grant an effective personal hearing, and issue a speaking order with consequential portal formalities. The Tribunal resolves the conflicting interception chronology in favour of night time interception. The amount deposited remains subject to fresh adjudication, without immediate refund. Ultimate penalty liability and both parties’ contentions on its merits remain open.	
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 proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Levy of Penalty	109142	The amount of ₹1,09,142/- paid through DRC-03 shall abide by the fresh adjudication.
10.	If remanded with directions:	
	a) Remanded to: Adjudicating Authority	
	b) Directions subject to which remanded, if any: (i) Order-in-Appeal No. 1247/GST/E-way Bill/2024 dated 16.05.2025 and Form GST MOV-09 dated 05.04.2024 are set aside. (ii) Form GST MOV-07 dated 04.04.2024 is not set aside. The matter is remitted under Section 113(1) to the original adjudicating authority for fresh adjudication from the stage of the said notice, strictly within its existing scope. (iii) The adjudicating authority shall furnish a reasonable opportunity to file a response/material and shall grant an effective personal hearing under Section 129(4). (iv) The authority shall consider the contemporaneous invoice/e-invoice, transport document, interception record, the appellant's explanation regarding non-generation of the e-way bill and such admissible supporting material as may be produced, and shall specifically verify the documents actually produced at interception. The officer shall also examine the timing of the alleged portal attempts and any contemporaneous support for the claimed urgency of dispatch. (v) A fresh speaking order shall be passed, uninfluenced by the conclusions contained in the orders hereby set aside, preferably within six weeks from receipt of this order, subject to limitation provided in section 75(3) of the CGST/CGGST Act and the consequential statutory forms/summary shall be uploaded/issued in accordance with law. (vi) The amount of ₹1,09,142/- deposited through DRC-03 shall abide by the fresh adjudication. All contentions of both sides on the merits of the proposed penalty are kept open. (vii) Nothing stated in this order, except the findings necessary for setting aside the defective adjudication and directing remand, shall be construed as a final determination of the appellant's liability to penalty.	

Signature

Place: RAIPUR
Date: 13.10.2026

RAIPUR Chandra Bhushan Singh
Designation: Member
Jurisdiction: Raipur

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

1. This appeal is preferred under Section 112(1) of the Chhattisgarh Goods and Services Tax Act, 2017 and the corresponding provisions of the Central Goods and Services Tax Act, 2017 (hereinafter collectively referred to as “the CGST/CGGST Acts”), read with Section 20 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as “the IGST Act”). It challenges Order-in-Appeal No. 1247/GST/E-way Bill/2024 dated 16.05.2025 passed by the Joint Commissioner (Appeals), State Tax, Raipur, which affirmed the penalty determined in FORM GST MOV-09 dated 05.04.2024 by the Assistant Commissioner, State Tax, Mahasamund Circle. The penalty in dispute is ₹1,09,142/- (CGST ₹43,104/-, SGST ₹43,104/- and Compensation Cess ₹22,934/-), imposed for movement of goods without an e-way bill.

FACTS AND PROCEDURAL HISTORY

2. The appellant is engaged in manufacture and supply of carbonated soft drinks and packaged beverages. On 04.04.2024 it issued e-invoice/tax invoice No. RY/2425-CI-000207 in favour of M/s Fagun Cold Drinks, Fingeshwar, for goods of taxable value ₹2,18,118.98, involving CGST and SGST of ₹21,552.24 each and Compensation Cess of ₹11,467.22. The invoice records preparation at 20:52:46 hours and removal at 21:22:46 hours. The goods were carried in vehicle No. CG-07-CA-0766. The transporter’s document on record describes movement from Raipur to Fingeshwar.
3. The vehicle was intercepted on 04.04.2024. The departmental forms record the interception time as “11:30” without an AM/PM designation. The appellant pleads 11:30 PM, whereas the counter-statement pleads approximately 11:30 AM. In light of the invoice preparation at 20:52:46 hours and removal at 21:22:46 hours and MOV-01 and MOV-07 dated 04.04.2024, we find that interception occurred at about 11:30 PM; the 11:30 AM assertion is inconsistent with that chronology. The common allegation emerging from the detention record, however, is that no e-way bill was available for the movement.
4. Form GST MOV-07 dated 04.04.2024 proposed penalty under Section 129. The notice stated that cause could be shown within seven days, while the appearance field was also fixed on 04.04.2024. FORM GST MOV-09 was passed on the next day, i.e. 05.04.2024. The amount of demand was thereafter paid through Form GST DRC-03 on 06.04.2024.

and the goods/conveyance were released in Form GST MOV-05. The DRC-03 shows the reason as “Penalty paid for e-waybill not generated for Vehicle No. CG07CA0766.”

RIVAL SUBMISSIONS

5. The appellant submits that it attempted to generate an e-way bill before the movement of goods commenced, but could not do so despite repeated attempts because of a technical issue with the e-way bill portal. It states that, in view of the urgent business requirements and repeated requests from the recipient, it transported the goods with a valid tax invoice and the transporter’s bulity. The appellant admits that, at best, the allegation pertains to a procedural lapse arising from non-generation of the E-Way Bill due to technical difficulties beyond the control of the Appellant. The appellant further submits that the transaction was accounted for in its returns and that it paid the amount demanded only to secure release of the goods and conveyance. The appellant states that this payment was made under protest to secure release and avoid further business losses. The respondent contends that an e-way bill was mandatory, that the alleged technical issue is unsupported by contemporaneous evidence, that the appellant voluntarily paid the penalty, and that it did not appear before the Appellate Authority.
6. The appellant also challenges the manner of adjudication: MOV-07, though allowing time to show cause, was followed by MOV-09 the very next day; MOV-09 is alleged to be non-speaking and incomplete; and neither MOV-09 nor the consequential DRC-07 was uploaded on the common portal. The appellant relied on *Premium Traders v. State of U.P., 2022 SCC OnLine All 2581*, for the requirement of a genuine opportunity of hearing in Section 129 proceedings. The respondent, on the other hand, supports the adjudication and the appellate order as valid.
7. We have heard the learned Authorised Representatives for both sides at length on 18.09.2026 and have perused the appeal memorandum, the counter-statement, the detention record, the impugned orders and the documents placed with the appeal.

ISSUES FOR DETERMINATION

8. In the above background, the questions that presently arise are:
 - (i) whether an e-way bill was legally required for the movement in question;
 - (ii) whether the penalty can be sustained on the basis of the adjudication actually undertaken under Section 129; and

(iii) what consequential order is appropriate under Section 113.

DISCUSSION AND FINDINGS

Requirement of e-way bill

9. At the outset, the argument cannot be accepted that the movement was outside the e-way-bill regime merely because it was intra-State. Notification No. F 10-31/2018/CT/V(46) dated 19.06.2018 issued under Rule 138(14)(d) of the Chhattisgarh GST Rules exempted intra-State movement generally, but specifically retained the e-way-bill requirement, where the consignment value exceeded ₹50,000, for specified goods moving from one district of Chhattisgarh to another. Item 11 of the notification included mineral waters, aerated waters and beverages falling under headings 2201 and 2202. The primary documents in the present case show movement of beverages from Raipur to Fingeshwar. The notification continued to operate on 04.04.2024. Thus, prima facie, generation of an e-way bill was required.
10. It is equally clear from the appellant's own case and from DRC-03 that no e-way bill had been generated. The plea is not one of existence of an e-way bill with a minor clerical defect, but of complete non-generation attributed to a technical glitch and business urgency. The record placed before us does not presently contain a contemporaneous portal error, help-desk ticket, complaint or other technical material establishing such failure. The claimed business urgency is likewise unsupported by contemporaneous material on the present record. The appellant's invoice records preparation at 20:52:46 hours and removal at 21:22:46 hours, an interval of 30 minutes. This timing calls for scrutiny of when the asserted repeated attempts to generate an e-way bill were made and what contemporaneous evidence supports the claimed portal failure; it does not itself disprove the claim.
11. We find interception to have occurred at about 11:30 PM, and the transport document describes movement from Raipur to Fingeshwar. On the present record, no identified delivery deadline or contemporaneous request from the recipient explains why dispatch on this route at 21:22:46 hours was urgent despite the claimed inability to generate an e-way bill. Therefore, plausibility of explanation of business urgency and portal glitch has to be corroborated with contemporaneous cogent material. We therefore do not consider it appropriate to annul the proceedings on the footing that no statutory contravention could possibly arise. At the same time, whether the appellant's

explanation, the documents accompanying the goods and the surrounding circumstances have any legally permissible bearing on the determination must be considered by a fresh adjudication after an effective hearing. We express no final opinion on that aspect.

Validity of the adjudication under Section 129

12. Section 129(4) expressly prohibits determination penalty under sub-section (3) without giving the person concerned an opportunity of being heard. The requirement is substantive, not ritualistic. The Hon'ble Supreme Court in *ASP Traders v. State of U.P.*, (2026) 2 SCC 641, held that even where the demanded amount is paid and the goods are released, the proper officer is not absolved of the obligation to pass a reasoned final order in Form GST MOV-09 after granting the hearing contemplated by Section 129(4), and to upload the consequential summary in Form GST DRC-07. The Court further held that payment for securing release cannot, by itself, be treated as waiver of the statutory challenge.
13. The same principle of meaningful hearing is consistent with the jurisdictional law. In *M/s Mahendra Sponge & Power Ltd. v. Assistant Commissioner, State Tax, WA No. 267 of 2022, decided on 09.01.2023*, the Division Bench of the Hon'ble Chhattisgarh High Court set aside the adjudication where the statutory opportunity of personal hearing had not been granted and directed fresh decision after hearing. Though that case arose under Section 73/Section 75(4), the principle is directly relevant where the statute itself makes hearing mandatory.
14. The importance of reasons is equally settled. In *S.N. Mukherjee v. Union of India*, (1990) 4 SCC 594: AIR 1990 SC 1984, the Constitution Bench of the Hon'ble Supreme Court held that an authority exercising quasi-judicial functions is ordinarily required to record clear and explicit reasons showing due consideration of the points in controversy. In *Kranti Associates (P) Ltd. v. Masood Ahmed Khan*, (2010) 9 SCC 496, the Hon'ble Supreme Court reiterated that recording reasons is an indispensable facet of fair decision-making and a restraint against arbitrariness.
15. Tested on these principles, MOV-09 dated 05.04.2024 cannot safely be treated as a completed speaking adjudication. It is not merely terse. The copy on record carries unselected alternatives and visible drafting placeholders in the very part where the adjudicating authority was required to record its reasoning and determination. It does

not disclose a clear consideration of the appellant's explanation, the documents said to have accompanied the goods, or the basis on which the proposed penalty was finally determined.

16. There is a further procedural difficulty. MOV-07 itself stated that cause could be shown within seven days, yet MOV-09 followed on the next day. In *Tractors and Farm Equipment Ltd. & Anr. v. Union of India & Ors.*, 2025 (7) TMI 1699 (Guj.), the Hon'ble Gujarat High Court interfered where proceedings under Section 129 were concluded without affording a real opportunity to respond to MOV-07. The decision is persuasive; more importantly, the present conclusion follows from Section 129(4) itself and the binding ratio of *ASP Traders (supra)*.
17. The appellant relied on *Premium Traders (supra)*. In that case, the notice was issued in the driver's name through a temporary ID, and the consignor was not afforded an effective opportunity of hearing. The High Court set aside the Section 129 order and remitted the matter for fresh decision after hearing. The decision is persuasive on the need for an effective hearing; the temporary-ID facts are not found to have occurred in the present case.
18. We have also considered that the appellant did not appear before the Appellate Authority despite notice. That circumstance is relevant to the appellant's conduct, but it does not convert an incomplete or non-speaking original adjudication into a valid one. The appellate authority was still required to examine the grounds raised against the Order-in-Original. The impugned Order-in-Appeal proceeds mainly on the mandatory character of the e-way bill and the absence of proof of technical glitch, but does not adequately deal with the facial state of MOV-09 or the manner in which the hearing contemplated by Section 129(4) was afforded.
19. Likewise, the payment made through DRC-03 cannot be treated as conclusive admission of legal liability. *ASP Traders (supra)* makes the position clear. The payment is relevant as part of the factual record, including the admitted absence of an e-way bill, but it does not foreclose scrutiny of the legality of the order by which penalty was determined.

Reasons and Scope of Remand

20. The defects noticed above go to the adjudicatory process. At the same time, the existing record discloses an intelligible allegation in MOV-07 - movement of goods without the

e-way bill - said to be required under Rule 138. It would therefore not be appropriate, on the present material, either to confirm the penalty solely because non-generation is admitted or to annul the notice and grant final exoneration without a valid adjudication of the explanation and surrounding facts.

21. Section 113(1) expressly empowers this Tribunal not only to confirm, modify or annul the order appealed against, but also to refer the case back to the Appellate Authority, Revisional Authority or the original adjudicating authority, with such directions as may be considered fit, for fresh adjudication or decision, after taking additional evidence if necessary. Since the infirmity originates in the original determination under Section 129 and the matters requiring consideration are primarily factual and adjudicatory, a direct remand to the original adjudicating authority is the appropriate course. Remand merely to the First Appellate Authority would not cure the foundational defect as effectively.
22. The remand, however, shall not be an unrestricted second proceeding. It shall remain confined to the allegation already contained in MOV-07 dated 04.04.2024. The proper officer shall not introduce a new factual foundation or a new charge beyond that notice. The appellant may place such material as is germane to the existing allegation, including material, if any, supporting the pleaded portal failure and the documents claimed to have accompanied the consignment. The respondent may rely on the contemporaneous interception file.
23. The proper officer shall also verify, from the contemporaneous departmental record, the documents actually produced by the person in charge. The officer shall proceed on the finding above that interception occurred at about 11:30 PM, consistent with the invoice and MOV-07 chronology. The officer shall thereafter pass a fresh, reasoned order dealing with the material submissions and the applicable law, after granting an effective opportunity of hearing under Section 129(4), and shall complete the consequential statutory/portal formalities including DRC-07, as applicable.
24. As regards ₹1,09,142/- already paid through DRC-03, no direction for immediate refund is called for while the very proceeding is being restored for fresh adjudication. The payment shall abide by the fresh order and consequential statutory remedies. It shall not, merely by reason of such payment, be treated as a waiver of the appellant's right to contest the levy.

CONCLUSIONS

25. On the issues framed in paragraph 8, we conclude as follows:

- (i) The movement was prima facie subject to the e-way-bill requirement, and no e-way bill was generated; the pleaded portal failure or the business urgency is not established on the present record;
- (ii) The penalty cannot be sustained on the basis of the adjudication actually undertaken under Section 129: MOV-09 does not disclose a completed, reasoned determination after an effective opportunity of hearing, and payment through DRC-03 does not cure that defect or waive the challenge;
- (iii) The appropriate consequential course under Section 113 is to set aside the Order-in-Appeal and MOV-09 and remit the matter to the original adjudicating authority for fresh adjudication within the scope of MOV-07. No final opinion is expressed on the appellant's liability to penalty.

ORDER

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

- (i) Order-in-Appeal No. 1247/GST/E-way Bill/2024 dated 16.05.2025 and Form GST MOV-09 dated 05.04.2024 are set aside.
- (ii) Form GST MOV-07 dated 04.04.2024 is not set aside. The matter is remitted under Section 113(1) to the original adjudicating authority for fresh adjudication from the stage of the said notice, strictly within its existing scope.
- (iii) The adjudicating authority shall furnish a reasonable opportunity to file a response/material and shall grant an effective personal hearing under Section 129(4).
- (iv) The authority shall consider the contemporaneous invoice/e-invoice, transport document, interception record, the appellant's explanation regarding non-generation of the e-way bill and such admissible supporting material as may be produced, and shall specifically verify the documents actually produced at interception. The officer shall also examine the timing of the alleged portal attempts and any contemporaneous support for the claimed urgency of dispatch.

- (v) A fresh speaking order shall be passed, uninfluenced by the conclusions contained in the orders hereby set aside, *preferably within six weeks from receipt of this order*, subject to limitation provided in section 75(3) of the CGST/CGGST Act and the consequential statutory forms/summary shall be uploaded/issued in accordance with law.
- (vi) The amount of ₹1,09,142/- paid through DRC-03 shall abide by the fresh adjudication. All contentions of both sides on the merits of the proposed penalty are kept open.
- (vii) Nothing stated in this order, except the findings necessary for setting aside the defective adjudication and directing remand, shall be construed as a final determination of the appellant's liability to penalty.

The appeal stands disposed of accordingly.

Pronounced in open court on 13.10.2026.

(Pradeep Kumar Vyas)

(Chandra Bhushan Singh)

Dated: 13.10.2026