GSTAT

State Bench Lucknow

Court No. Court I

APL/103/LCK/2026

SANJEEV KUMAR NIRANJAN **.....Appellant**

Versus

M/S TIME STEELS, PARTNER, 28 SECTOR M KANPUR ROAD ASHIAYANA UPLUC 226012 **.....Respondent**

Quorum

Hon'ble Santosh Kumar Srivastava, Member(Judicial)
Hon'ble Arvind Kumar, Member (Technical)

Counsel for Appellant
MR. MAHENDRA PRATAP SINGH, ASSISTANT COMMISSIONER, SGST

Counsel for Respondent
MR. RADHEY SHYAM SAINI, 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. : ZA090371026000466H **Date of order :** 24/10/2026

1.	GSTIN/Temporary ID/UIN - 09AAIFT2705K1ZY	
2.	Appeal Case Reference no. - APL/103/LCK/2026	Date - 29/04/2026
3.	Name of the appellant - SANJEEV KUMAR NIRANJAN , sanjeevniranjan72@gmail.com , 7235002519	
4.	Name of the respondant - 1. M/S TIME STEELS , yogyakumar@yahoo.in , 8318637969	
5.	Order appealed against - AD091119005807X	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD090422027487A	Date - 13/04/2022
6.	Personal Hearing - 24/10/2026 25/09/2026 15/09/2026 10/09/2026	

7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief - The Revenue Department filed an appeal challenging the Order-in-Appeal dated 13.04.2022, which set aside the confiscation, tax, penalty, and redemption fine totaling Rs.1,89,000 imposed on the taxpayer under Section 130 of the CGST/UPGST Act, 2017. The case arose from an SIB inspection conducted on 20.03.2018, during which an alleged discrepancy was found between the physical stock and the books of accounts. The taxpayer explained that the discrepancy resulted from a temporary delay in entering transactions due to the accountant's absence. The taxpayer also produced a valid invoice dated 19.03.2018 and relied on statutory returns to establish the genuineness of the stock. Further, the survey team's reliance on approximate measurements rather than proper physical weighment was questioned. The Bench held that a temporary delay in recording genuine transactions does not automatically establish deliberate non-accountal or justify confiscation under Section 130. It also considered the findings of the separate proceedings under Section 74, in which the taxpayer's explanations were accepted on most issues, leaving only a minor stock discrepancy.

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	31500	0	31500	0	0		0		63000	0
(b) Interest	0		0		0		0		0	0
(c) Penalty	31500	0	31500	0	0		0		63000	0
(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
Classification dispute	Held that stock discrepancy was explainable due to delayed accounting, approximation and subsequent reconciliation; reliance placed on Section 74 findings; confiscation proceedings set aside and demand reduced to NIL.	The Department's appeal is dismissed

Place :LUCKNOW

Signature

Date : 26.10.2026

LUCKNOW ANAMIKA DEVI

Designation : Stenographer/Law researcher

Jurisdiction :Lucknow

ORDER

This appeal has been preferred by the Revenue Department (hereinafter referred as Applicant) against the Order-in-Appeal No. 34/19 dated 13.04.2022 passed by the Learned Additional Commissioner Grade-II (Appeals)-III, Lucknow. The Appellate Authority, via the impugned order, set aside the confiscation, tax, penalty, and redemption fine totaling Rs.1,89,000/- originally imposed on the Respondent (Taxpayer) by the proper officer under Section 130 of the CGST/UPGST Act, 2017.

1. BRIEF FACTS OF THE CASE

1.1. The Respondent is a registered dealer engaged in the manufacturing and trading of M.S. Wire, M.S. Flat, and related iron/steel items (HSN 7206). On 20.03.2018, the officers of the Bureau of Investigation (SIB) Range-B, Lucknow conducted a search and survey at the business premises of the Respondent. During the inspection, the survey team cross-verified the physical inventory with the running balances in the books of accounts and alleged a structural stock discrepancy. Claiming that these stocks were "unaccounted for" in the statutory record books, the goods were detained via Form GST INS-02. Subsequently, a Show Cause Notice dated 16.04.2019 under Section 130 read with Section 122 of the Act was served, computing an estimated market value of the goods at Rs.3,50,000/- and proposing a total demand of Rs.1,89,000/- distributed equally across Tax, Penalty, and Redemption Fine under Central and State GST components.

1.2. The Proper Officer (Deputy Commissioner, Range-B, Lucknow) passed Order No. 54/2017-18 dated 13.08.2019. The Proper Officer rejected the taxpayer's defense that the administrative lag in book entries was caused by the regular accountant being on leave from 18.03.2018 to 20.03.2018. The OIO also disregarded a purchase invoice dated 19.03.2018 relating to an inward supply of 9.56 MT from an unregistered person. Holding that physical

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stock must exactly match the books at the exact minute of inspection, the authority confirmed a demand of Rs.63,000/- Tax, Rs.63,000/- Penalty, and Rs.63,000/- Redemption Fine.

1.3. Aggrieved by the OIO, the taxpayer filed a First Appeal. The First Appellate Authority (Additional Commissioner Grade-II (Appeals)-III, Lucknow) scrutinized the case records and allowed the appeal on 13.04.2022. The OIA held that:

i. The books of accounts were fully complete and structured till 17.03.2018, and a tiny delay of 2 days due to an accountant's leaves cannot be weaponized as deliberate concealment.

ii. The SIB survey team utilized rough mathematical visual approximations/eye-measurements instead of performing rigorous, standard computerized physical weighment.

iii. The taxpayer established that the inward stock of 9.56 MT was supported by a valid business Bill of Supply Invoice (No. GST/31/MAR/1 dated 19.03.2018) and the exact values stood duly declared in statutory monthly GSTR-1 and GSTR-3B filings.

iv. Parallel adjudication proceedings initiated under the anti-evasion segment of Section 74 against the same survey report concluded with the jurisdictional assessing officer accepting taxpayer's explanations on the major/most of the points., limiting the real tax liability to a minor variance of 1.750 MT and created a total demand of Rs.32,501/-. Relying on settled jurisdictional precedents (Kanpur Granite Stone Co. and Chawla Brick Field), the OIA set aside the confiscation and deleted the demand entirely.

2. GROUNDS OF APPEAL BY THE DEPARTMENT

The Revenue Department, challenging the relief given to the taxpayer, has raised the following core contentions:

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2.1. The department argues that Section 130 is an entirely independent, standalone code. Its activation is completely insulated from, and not contingent upon, any separate tax determination or recovery framework under Sections 73 or 74 of the Act.

2.2. It is urged that Section 130(1)(ii) triggers strict statutory liability the moment a registered taxpayer fails to contemporaneous account for taxable goods in their books. The department claims that elements of mens rea or intent to evade tax are read into the statute unnecessarily, and administrative justifications like an accountant's sudden leave are legally irrelevant.

2.3. The Revenue asserts that compliance must be measured exclusively by the status of physical records at the precise hour of survey. Post-facto production of invoices (such as the unverified document (Bill of Supply Invoice No. GST/31/MAR/1 dated 19.03.2018) or subsequent return reconciliations via GSTR statutory forms are inadmissible alterations of the factual position intercepted at the inspection spot.

2.4. The department objects to the OIA placing reliance on the final findings of Section 74 assessment proceedings. The department argues that calculating tax and seizing goods are completely separate legal processes. Therefore, reducing a taxpayer's regular tax liability does not cancel out a separate finding that goods were left out of the account books.

3. SUBMISSIONS OF THE RESPONDENT (TAXPAYER)

3.1. The learned counsel for the Respondent countered the department's stance by highlighting the following:

3.2. The taxpayer takes the categorical stand that the goods were never omitted from account, the entries are fully found and identified in their formal books of account (Lekha Pustake). There was merely an operational delay of 48 hours in posting the transaction entries

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into the IT ledger because the primary company accountant went on an authorized medical/personal leave from 18-03-2018 to 20-03-2018.

3.3. The transaction was fully supported by authentic, pre-existing business documentation including a comprehensive Invoice/Bill of Supply dated 19.03.2018. Crucially, the entire stock volume was transparently and successfully reported in the corresponding monthly GSTR-1 and GSTR-3B statutory returns, establishing a complete lack of any intent to evade public exchequer taxes.

3.4. The alleged excess stock is a phantom mathematical error stemming from the SIB survey team's reliance on vague eye-estimations and volume-to-weight approximations rather than executing standard physical weight verification with calibrated weighing instruments.

3.5. The Respondent placed reliance on the landmark ruling of the Hon'ble Supreme Court of India in Additional Commissioner Grade-2 v. Dinesh Kumar Pradeep Kumar [2025]. The Apex Court affirmed that a routine survey identifying a stock variance within business premises can only invite proceedings under Section 73 or 74 for regular tax determination, and directly resorting to the extreme penal tool of Section 130 confiscation is legally impermissible.

4. QUESTIONS OF LAW

- Whether an operational, short-term delay in formal bookkeeping entries caused by an accountant's absence can be structurally linked to a willful failure to account for goods under Section 130(1)(ii)?

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5. DISCUSSION AND FINDING

5.1 We have meticulously evaluated the submissions made by both sides, examined the lower court records, and thoroughly analysed the statutory framework alongside the binding judicial precedents cited before this Division Bench.

5.2 The core foundation of the Revenue's appeal rests on the premise that because the physical quantities found during the spot survey did not contemporaneously match the active written entries inside the ledger on that specific date, a case of "non-accountal" stands established automatically.

5.3 Ld. Counsel for respondent argued that entries corresponding to the disputed stock are fully existing, recorded, and verifiable in the regular books of accounts (Lekha Pustake) of the taxpayer. The temporary absence of the office accountant for two days (from 18.03.2018 to 20.03.2018) was a normal administrative occurrence due to medical or personal leave. The underlying transactions were validated by an invoice dated 19.03.2018, which was generated prior to the arrival of the survey team on 20.03.2018. This completely disproves any allegation of post-facto fabrication.

5.4. We find that since the entries are clearly present and recorded in the books of accounts, and the same have been successfully validated through cross-referencing with statutory returns and same has also been held by the first appellate authority in his judgement, the presence of the entries stands legally confirmed and verified. There is a vast legal distinction between a delayed entry of a genuine transaction and an unaccounted transaction designed for clandestine removal. Delayed bookkeeping backed by regular commercial invoices cannot be branded as a statutory offense under Section 130.

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5.5. We find that the SIB survey team utilized rough mathematical visual approximations/eye-measurements instead of performing rigorous, standard computerized physical weighment

5.6. Section 130 of CGST 2017 contains the severe penalty of confiscating the entire commercial stock and imposing massive redemption fines is restricted to cases involving clear, deliberate evasion. In the present case, the regular jurisdictional officer already concluded a separate assessment under Section 74 and accepted the taxpayer's explanations in most of the points, minimizing the dispute to a tiny variance of 1.750 MT. It is a basic rule of law that the department cannot maintain two contradictory positions, it cannot accept a transaction as a reconcilable business variance under Section 74 while simultaneously calling it a confiscable offense under Section 130.

5.7. Since, the First Appellate Authority acted fully in accordance with the law in quashing the order passed under Section 130. The findings in the OIA are based on a correct appreciation of the facts and settled law, and warrant no interference from this Bench." The appeal filed by the Revenue Department is hereby dismissed.

ORDER

- In view of the above findings, the Appeal filed by the Revenue Department is hereby dismissed.
- The Order-in-Appeal dated 13.04.2022 passed by the First Appellate Authority, setting aside the tax, penalty, and redemption fine of Rs. 1,89,000/-, is upheld.

(Santosh Kumar Srivastava)

24/10/26

(Arvind Kumar)

Dated: 24.10.2026

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