GSTAT

State Bench Bengaluru

Division Bench Court No. Court II

APL/251/BUR/2026

BANG POLY PACKS (A DIVISION OF BANG DATA FORMS PVT LTD) **.....Appellant**

Versus

COMMISSIONER OF COMMERCIAL TAXES, COMMISSIONER OF COMMERCIAL TAXES, KARNATAKA & ORS. **.....Respondent**

Quorum

Hon'ble Sudha Koka, Member (Technical)
Hon'ble Srikanth Venkatraman, Member(Judicial)

Counsel for Appellant

ANNAPURNA D KABRA

Counsel for Respondent
THIPPA NAYAK, SGST AR

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. : ZN290171026000139H **Date of order :** 28/10/2026

1.	GSTIN/Temporary ID/UIN - 29AAACB1541Q1ZG	
2.	Appeal Case Reference no. - APL/251/BUR/2026	Date - 30/06/2026
3.	Name of the appellant - BANG POLY PACKS (A DIVISION OF BANG DATA FORMS PVT LTD) , varadraj@bangdataforms.com , 9371178955	
4.	Name of the respondant - 1. JCCT (e-Audit) , jccte-audit@ctd.ka.gov.in , 9448811330 2. Commissioner of Commercial Taxes	
5.	Order appealed against -	
	(5.1) Order Type - Enforcement Order	
	(5.2) Ref Number - 28/2024-25/1355/1	Date - 27/02/2026

6.	Personal Hearing - 28/10/2026 15/10/2026 12/10/2026 01/10/2026
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled
8.	Order in brief - The e-way bill records the movement as job work and was accompanied by a delivery challan. Both the documents contained all the information as required under Rule 55 and Rule 138 of the CGST Rules. The Act or the rules do not support the reasoning of the proper officer or of the Appellate Authority. The appellant has not violated any provisions of the Act or the rules that would warrant invoking Section 129 of the Act. The imposition of tax and penalty is set-aside.

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	0	0	0	0
(b) Interest	0	0	0	0	0	0	0	0	0	0
(c) Penalty	108880	0	108880	0	0	0	0	0	217760	0
(d) Fees	0	0	0	0	0	0	0	0	0	0
(e) Others		0		0		0		0		0
(f) Refund		0		0		0		0		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	1. The First Appellate Authority (FAA) rejected the Appellant's appeal (APL-01) in its entirety and upheld the Adjudicating Authority's Order-in-Original (Form GST MOV-09). 2. The FAA sustained the penalty and tax demand of Rs 2,17,764/- (Tax of Rs 1,08,882/- and Penalty of Rs 1,08,882/-) originally imposed under Section 129(1)(a) of the CGST/KGST Act, 2017. 3. In Paragraph 9 of the Order-in-Appeal, the FAA specifically recorded a finding that the Appellant had incorrectly declared an interstate transaction as an intra-state transaction on the portal or documentation. 4. The authority dismissed the Appellant's contentions that the transaction was a bona fide, non-taxable job work return under Section 143 supported by a Rule 55 Delivery Challan and a matching E-way bill. 5. The FAA agreed with the Enforcement Officer's view that the movement constituted a taxable interstate supply where IGST ought to have been charged, thereby treating the documentation as legally defective. 6. The FAA upheld the summary invocation of Section 129, finding that the transit interception, subsequent physical verification, and detention proceedings were validly executed by the respondent authority.	THE APPEAL IS ALLOWED. THE IMPOSITIO OF PENLATY IS SETASIDE

Place :BENGALURU

Signature

Date : 28.10.2026

BENGALURU Srikanth Venkatraman

Designation : Member

Jurisdiction :Bengaluru

ORDER

Per Srikanth Venkatraman, Member (Judicial)

(1) The appellant, M/s. Bang Poly Packs, has filed this appeal assailing the order of the Joint Commissioner of Goods and Services Tax (Appeals), Kalaburagi ('the Appellate Authority'), passed in GST AP: 28/2024-25 dated 27.02.2026. the Appellate Authority confirmed the invocation of Section 129 of the Central Goods and Services Tax Act, 2017 ('the Act') by the Assistant Commissioner of Commercial Taxes, (Enforcement-2), Kalaburagi ('the proper officer'), passed in Order No: ACCT/ENF/2/52 dated 25.01.2024.

Factual matrix

(2) The appellant is primarily engaged in job work activities and is registered under the Act, bearing GSTIN: 29AAACB1541Q1ZG. The appellant operates as a job worker for its Solapur unit, Maharashtra. The appellant receives PP granules from the Solapur unit, converts them into PP woven fabrics and returns the finished goods to the Solapur unit.

(3) The appellant despatched PP woven fabric, PP wastage, and scrap to the Solapur unit on 24.01.2024. The consignment was accompanied by an e-way bill bearing no. 171789282047 and a delivery challan bearing no. GST/220 dated 24.01.2024. The e-way clearly stated that the supply was for job work. The proper officer intercepted the consignment on 24.01.2024 (page 3 and the 1st para of the order state the interception date as 24.01.2023, which is a mistake). The proper officer detained the goods as the documents produced at the time of interception were said to be defective. The proper officer invoked Section 129 on the ground that the goods transported were not capital goods and the appellant had not charged IGST on interstate transportation of goods. The proper officer proposed to levy tax of Rs. 1,08,882/- and penalty of Rs. 1,08,882/- under Section 129(1)(a) of the Act. The appellant paid the tax and penalty amounts and obtained release of the consignment.

(4) The Appellate Authority dismissed the appeal by order dated 27.02.2026. On page 7, the Appellate Authority held that the inter-state transaction was declared an intra-state transaction. On page 8, it was held that IGST was not charged on inter-state transportation of goods between the two entities. Accordingly, the present appeal is filed before this Tribunal to challenge the imposition of tax and penalty under Section 129 of the Act.

(5) The learned authorised representative for the appellant, Ms. Annapurna Kabra, Chartered Accountant, reiterated the grounds of appeal. It was submitted that the movement of goods to Solapur, Maharashtra, represented a return of goods after processing to the principal and did not constitute a taxable supply. The question of whether the transaction represented 'job work' or 'taxable supply' is a matter of assessment and cannot be determined under Section 129; hence, the proper officer exceeded his jurisdiction. The appellant had complied with Rule 55 of the CGST Rules, as the consignment was accompanied by a delivery challan and e-way bill. Since the movement was not a taxable supply, the absence of IGST on the delivery challan was not a 'defect' or a contravention of the Act or the rules. The absence of an allegation of a mismatch between the physical goods and the e-way bill and delivery challan proves that the appellant was engaged in job work. The appellate authority's finding that the appellant incorrectly declared an interstate transaction as an intra-state transaction demonstrates a lack of application of mind. The Appellate Authority's assertion that the appellant sought to characterise the movement as intra-state is fundamentally contrary to the documentary evidence on record.

(6) The appellant had also filed additional grounds contending that the imposition of tax and penalty under Section 129(1)(a) was void ab initio as on the date of interception, namely, 24.01.2024, the Section provided for imposition of penalty only equal to 200% of the tax payable on such goods and not levy of applicable tax and penalty equal to 100% of the tax payable on such goods. The Supreme Court decision in *(1998) 229 ITR 383 (National Thermal Power Co. Limited vs. CIT)* was relied upon to sustain the additional grounds. It was submitted that pre-amended Section 129(1)(a) was not in existence on the date of detention, and hence the proper officer did not possess jurisdiction to demand tax and penalty. Reliance was placed on the decision of the Supreme Court in *(2019) 12 SCC 150 (K. Sashidhar Vs. Indian Overseas Bank)*

(7) The learned authorised representative for the revenue, Mr Thippa Nayak, SGST, supported the appellate authority's reasoning and prayed for dismissal of the appeal.

Findings

(8) Heard the rival submissions and perused the connected records. The following issues arise for our consideration:

(a) Whether the additional grounds filed by the appellant are maintainable before the Tribunal?

(b) Whether the order of the proper officer demanding tax and penalty, applying the pre-amended Section 129(1)(a), instead of demanding penalty alone as per the amended law, would result in the entire proceedings being declared void ab initio?

(c) Whether the invocation of Section 129 of the Central Goods and Services Tax Act, 2017 is just and proper in the facts and circumstances of the case?

(a) Whether the additional grounds filed by the appellant are maintainable before the Tribunal?

(9) The Supreme Court in *National Thermal Company Vs. Commissioner of Income Tax [(1998) 229 ITR 383]* had held, while interpreting Section 254 of the Income Tax Act, that where the Tribunal was only required to consider a question of law arising from the facts which are on record in the assessment proceedings, there is no reason why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of an assessee. The additional ground raised by the appellant is a pure question of law; hence, we hold that the additional ground is maintainable before the Tribunal.

(b) Whether the order of the proper officer demanding tax and penalty, applying the pre-amended Section 129(1)(a), instead of demanding penalty alone as per the amended law, would result in the entire proceedings being declared void ab initio?

(10) The appellant would submit that the proper officer had passed an order demanding tax and penalty under section 129(1)(a) of the Act when such a provision was not in existence on the date of interception, and hence the entire order was void ab initio. On the date of interception, the proper officer can demand penalty at 200% of the tax payable. The proper officer acting under Section 129 after that date had no power to determine or demand tax and penalty. The appellant relied on the Supreme Court's decision in (2019) 12 SCC 150 (K. Sashidhar v. *Indian Overseas Bank)* to support the contention that the provision does not operate retrospectively, even if substituted, unless there is a clear intention to the contrary.

(11) The aforesaid decision is not applicable in the present case. Section 129 addresses violations of the Act or the rules when any person transports or stores goods in transit. In the event of violation of the Act or the rules, the goods and the conveyance are liable for detention or seizure. Section 129(1)(a), (b) and (c) provides for release of the goods and/or consignment on the payment of the amounts mentioned in subclauses

(a) or (b) of Section 129(1). Before 1.1.2022, the goods and conveyance could be released, inter alia, if tax and penalty were paid, under Section 129(1)(a). After 1.1.2022, the goods and conveyance can be released, inter alia, if a penalty equal to 200% of the tax payable is paid, under Section 129(1)(a).

(12) The amendment only changed the quantum of amount payable for release and did not take away the proper officer's power to detain the goods to determine whether or not the provisions of the Act or rules have been violated. The substantive portion of Section 129 was not changed. The application of old law will not invalidate the order. The officer committed a mistake in demanding tax and penalty under the pre-amended law. The order cannot be set-aside as void ab initio on the ground that the pre-amended law was applied.

(c) Whether the invocation of Section 129 of the Central Goods and Services Tax Act, 2017 is just and proper in the facts and circumstances of the case?

(13) The consignment was accompanied by an e-way bill and delivery challan. The e-way bill records the movement as outward job work, and the consignment was accompanied by a delivery challan. These documents required the proper officer to examine the transaction in the light of the provisions governing job work and the movement of goods without payment of tax. The mere absence of IGST on the delivery challan could not, without identifying the applicable charging provision and the nature of the alleged taxable supply, establish a contravention warranting detention under Section 129.

(14) The proper officer had detained the consignment for the following reason:

""The goods being transported were PP woven fabric and PP wastage and scrap. The goods being transported is not capital goods as mentioned in section 143 of the KGST Act, 2017. The tax payer has not charged IGST on the interstate goods transportation between two entities. Hence, the goods transported were on the basis of defective document."

Section 143 of the Act states that a registered person can send inputs or capital goods to a job worker without payment of tax. The registered person must receive the finished goods within 1 year, at any of its places of business, after completion of the job work, without payment of tax. When the despatch of goods for job work is not taxable under Section 143, the reasoning that IGST was not charged for the inter-state transaction is incorrect. Section 143 is applicable to both inputs and capital goods.

(15) The Appellate Authority dismissed the appeal on the following grounds:

""Page 7 – In the instant case, the above said minor mistakes are not committed in the documents produced rather the inter-state transaction is declared as intra-state transaction leading to the payment of tax under IGST instead of CGST and SGST. Hence there is situation arising to levy the penalty to the tune of 500.00 each under Section 125 of the Act."

"Page 8 – The respondent has rightly noticed the following discrepancies, the vehicle is moving from Kalaburagi, Karnataka to Solapur, Maharashtra carrying the delivery challan vide no. GST/220 dated 24.01.2024. The tax is not charged on IGST on the inter-state goods transportation between the two entities. The appellant's contention that the goods are accompanied by tax invoices and e-way bills should not attract penalty, does not hold good when the respondent has brought out a clear case of evasion in Form MOV-09 dated 24.01.2024."

The finding on page 8 contradicts the finding given on page 7 of the order. On page 7, the Appellate Authority holds that the inter-state transaction was treated as an intra-state transaction. On page 8, the Appellate Authority holds that the appellant did not charge IGST on the inter-state transaction. The Appellate Authority did not examine Section 143 of the CGST Act read with Rule 55 of the CGST Rules before passing its order. The Appellate Authority has repeated verbatim the proper officer's reasoning for dismissing the appeal.

(16) We have gone through the e-way bill and the delivery challan. The e-way bill records the movement as job work and was accompanied by a delivery challan. Both the documents contained all the information as required under Rule 55 and Rule 138 of the CGST Rules. The Act or the rules do not support the reasoning of the proper officer or of the Appellate Authority. The appellant has not violated any provisions of the Act or the rules that would warrant invoking Section 129 of the Act. The imposition of tax and penalty is set-aside.

Order

(i) The appeal is allowed.

(ii) The order of the appellate authority passed in GST AP: 28/2024-25 dated 27.02.2026, upholding the invocation of Section 129 of the Central Goods and Services Tax Act, 2017, is set-aside.

(iii) The respondent is directed to refund the tax of Rs. 1,08,882/- and penalty of Rs. 1,08,882/-, in all Rs. 2,17,764/-, within 8 weeks from the date of this order with statutory interest, after due verification of demand and payment records.

(Sudha Koka)

(Srikanth Venkatraman)

Dated: 28.10.2026