GSTAT

State Bench Bengaluru

Court No. Court II

APL/287/BUR/2026

DB DAZZLE MODULAR SYSTEMS **.....Appellant**

Versus

COMMISSIONER OF COMMERCIAL TAXES, COMMISSIONER OF COMMERCIAL TAXES, VANIYA THERIGE KARYALAYA KALIDASA ROAD GANDHINAGAR BANGALORE â?? 560009 & ORS. **.....Respondent**

Quorum

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

Counsel for Appellant
RAJENDRAN

Counsel for Respondent
SGST AR TEAM

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. : ZA290171026000145H **Date of order :** 28/10/2026

1.	GSTIN/Temporary ID/UIN - 29AIMPP9203C3Z2	
2.	Appeal Case Reference no. - APL/287/BUR/2026	Date - 03/05/2026
3.	Name of the appellant - DB DAZZLE MODULAR SYSTEMS , palani.m@dazzletech.in , 9448370989	
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 - GST.AP.116/22-23	Date - 28/08/2023

6.	Personal Hearing - 28/10/2026 30/09/2026
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled
8.	Order in brief - 1. Core Dispute & Subject Matter • The Issue: Levying a harsh 200% penalty under Section 129(1)(a) of the CGST Act for transit without a pre-generated electronic invoice (IRN/QR code) when goods were accompanied by a manual invoice,delivery note, and valid e-way bill. • The Cause: Technical portal downtime on the government's e-Invoice Portal prevented immediate IRN generation at the time of dispatch on 06.10.2022 (though successfully generated the next morning). 2. Key Findings of the Tribunal • Absence of Mens Rea (Satyam Shivam Papers): Citing the Hon'ble Supreme Court ruling in Assistant Commissioner (ST) v. M/s. Satyam Shivam Papers Pvt. Ltd. [(2022) 14 SCC 157], the Tribunal reiterated that mens rea (intent to evade tax) is a mandatory prerequisite for invoking Section 129 penalties.Mechanical penalization for minor reporting/portal lapses absent fraudulent intent is legally unsustainable. • Doctrine of Impossibility (Lex non cogit ad impossibilia): A taxpayer cannot be penalized for failing to generate an e-invoice when blockages stem from server congestion or technical glitches on the government portal, especially when absolute financial and physical transparency is maintained. • Distinction of Case Law: o TheDepartment'srelianceonM/s.JhansiEnterpriseswasrejectedbecause that case involved a complete, catastrophic absence of foundational documents. o ReaffirmedtheratiofromAthiyanExportsv.StateTaxOfficer[[2025]176 taxmann.com 137 (Madras)] and Nancy Trading Company, confirming that online/portal issues accompanied by valid transit documents do not constitute tax evasion, and that paying a penalty under economic duress (via DRC-03) to release a detained vehicle does not estop an assessee from seeking appellate relief. 3. Operative Tribunal Order 1. AppealAllowed:Theimpugnedappellateorderconfirmingthe200%penaltyisset aside. 2. Refund Mandated: The Respondent authorities are directed to refund the entire penalty amount of ? 5,81,316 paid via DRC-03 under protest, along with statutory interest, within eight weeks of the order.
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	290658	0	290658	0	0	0	0	0	581316	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	Penalty leviable since the goods were accompanied by manual tax invoice, EWB and Delivery Challan, without being accompanied by E-Invoice.	Penalty Quashed

Place :BENGALURU

Date : 28.10.2026

Signature

BENGALURU Sudha Koka

Designation : Member

Jurisdiction :Bengaluru

ORDER

Order Per: Sudha Koka, Member Technical (Centre)

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1. **INTRODUCTION** This appeal is instituted under Section 112 of the Central Goods and Services Tax (CGST) Act, 2017, read with the Karnataka Goods and Services Tax (KGST) Act, 2017 and Integrated Goods and Services Tax (IGST) Act, 2017, assailing the appellate order passed by the First Appellate Authority. The said order confirmed a draconian 200% penalty levied under Section 129(1)(a) of the Act consequent to the interception of a commercial consignment in transit. The core dispute centers around the non-generation of an electronic invoice (e-invoice) at the exact moment of removal due to a government portal downtime, despite the physical consignment being accompanied by a valid e-Way Bill, a commercial Invoice, and a Delivery Note, with zero mismatch in quantity, quality, or tax payment.

2. **BRIEF FACTS OF THE CASE**

2.1. The Appellant, M/s. DB Dazzle Modular Systems, is a proprietorship firm engaged in the manufacture and supply of Raised Access Flooring Tiles. Pursuant to Notification No. 17/2022-Central Tax, e-invoicing provisions became statutorily applicable to the Appellant firm effective from **01.10.2022**.

2.2. On **06.10.2022**, the Appellant attempted to generate an electronic invoice for an inter-State outward supply of goods to *M/s. Tablespace Construction Private Limited, Maharashtra* (covered under Invoice No.DB/IN/22-23/256). However, the government's common e-Invoice Portal suffered unforeseen technical downtime, failing to process the generation of the Invoice Reference Number (IRN) at the hour of dispatch.

2.3. Because the goods were urgently required at the recipient's project site in Pune, the Appellant generated e-Way Bill No. 1215 3734 6053 for vehicle No. MH14 GU9252 at 7:20 PM on 06.10.2022 and dispatched the consignment accompanied by a commercial Invoice and a Delivery Note (DB/DC/22-23/422).

2.4. While the consignment was in transit, the proper officer intercepted the vehicle at NH-04 Bypass, Davanagere at 7:30 AM on **07.10.2022**. Although the driver produced the e-Way Bill, commercial Invoice, and Delivery Note, the authorities detained the vehicle solely on the ground that an electronic invoice (with IRN/QR code) was missing at the precise moment of interception (the IRN was successfully generated and acknowledged on the portal later that same morning).

2.5. On **09.10.2022**, the Adjudicating Authority issued a Show Cause Notice in **Form MOV-07**, proposing a 200% penalty under Section 129(1)(a) of the CGST Act (read with Section 20 of the IGST Act), treating transit without an e-invoice as transit without *any* invoice. To stop continued commercial detention and business disruption, the Appellant paid the 200% penalty (aggregating to ?5,81,316 across CGST and SGST heads, corresponding to twice the invoice tax of ?2,90,658.01) under protest via **DRC-03**, following which

the vehicle and goods were released vide **Form MOV-09** (Order No. 14/2022-23) dated **09.10.2022**.

2.6. The statutory appeal filed before the First Appellate Authority challenging the penalty was dismissed, leading to the institution of the present appeal before this Tribunal.

3. **CHRONOLOGY OF EVENTS (TABLE OF FACTS)**

Date / Stage	Event Description & Procedural Milestones
01.10.2022	e-Invoicing provisions became statutorily applicable to the Appellant firm pursuant to Notification No. 17/2022-Central Tax.
06.10.2022	Unforeseen technical downtime on the e-Invoice Portal prevented e-invoice generation for Invoice No. DB/IN/22-23/256. The Appellant generated e-Way Bill No. 1215 3734 6053 for vehicle No. MH14 GU9252 at 7:20 PM and dispatched the goods with a manual Tax Invoice and Delivery Note.
07.10.2022	Interception and detention of the vehicle at NH-04 Bypass, Davanagere at 7:30 AM, due to the absence of a pre-generated electronic invoice (IRN generated later on the same day).
09.10.2022	Issuance of Form MOV-07 and MOV-09. Penalty of ?5,81,316 paid under economic duress via DRC-03 following a letter attributing clerical/portal delay; goods and vehicle released.

28.08.2023 The First Appellate Authority (Joint Commissioner of Commercial Taxes (Appeals)-5, Bengaluru) dismissed Appeal No. GST.AP.116/22-23 and confirmed the penalty order.

18.04.2026 The Appellant instituted the present appeal before the Tribunal challenging the appellate order and seeking a setting aside and refund of the penalty.

4. **FINDINGS AND ORDER OF THE FIRST APPELLATE AUTHORITY**

The First Appellate Authority rejected the Appellant's appeal and confirmed the adjudication order through **Order No. GST.AP.116/22-23 dated 28.08.2023**, based on the following primary findings:

- **Mandatory E-Invoicing & Rule 48(5):** Since the Appellant's turnover exceeded the threshold under Notification No. 17/2022, e-invoicing was compulsory. Citing **Rule 48(5)**, it ruled that any invoice issued in any manner other than via the IRP portal "shall not be treated as an invoice." Consequently, the manual invoice carried during transit was held to have no legal standing.

- **Rejection of Rule 55(4) Defense:** The lower appellate authority held in paragraph 11 that Rule 55(4) (transportation under delivery notes/subsequent invoicing) cannot override mandatory e-invoicing requirements applicable to notified taxpayers.

- **Exclusion of *Mens Rea* & Evaluation of Intent:** Relying on judicial authorities such as *State of Gujarat v. Saw Pipes Ltd.* [(2023) 5 SCC 128] and *Assistant Commercial Tax Officer v. Bajaj Electricals Ltd.* [(2008) 18 VST 436 (SC)], paragraphs 12–17 concluded that penalty under Section 129 is a civil liability for breach of statutory obligations, and *mens rea* need not be proved once a statutory contravention is established.

- **Order of the First Appellate Authority:** The First Appellate Authority dismissed the appeal in paragraph 18, upholding the 200% penalty levied under Section 129(1)(a).

5. **GROUNDS OF APPEAL RAISED BY THE APPELLANT**

The Appellant assails the impugned penalty orders on six substantive grounds:

- **Rule 55(4) Protection:** The adjudicating authority failed to consider Rule 55(4), which permits transportation without immediate issuance of an invoice under delivery notes, subject to subsequent invoicing.

- **Portal Failure (*Force Majeure*):** Technical portal issues prevented the pre-generation of the e-invoice prior to dispatch, while transportation was fully backed by a manual invoice, e-way bill, and delivery note with absolute transparency.

- **Absence of Evasion History:** The Department cannot arbitrarily presume tax evasion or impose penalties without any history of tax evasion or evidence of concealed goods.

- **Lack of *Mens Rea*:** Penalty cannot be imposed under Section 129 without establishing a clear intention to evade tax, and no evidence of fraudulent intent was produced by the officer.

- **Illegal Detention Despite Companion Documents:** Detention and recovery were illegal because all necessary documents accompanied the goods, and physical verification confirmed zero quantity or value discrepancies.

- **Non-application of Mind:** The appellate authority affirmed the penalty mechanically without applying its mind to the statutory provisions and factual submissions.

6. **WRITTEN COUNTER-AFFIDAVIT FILED BY THE RESPONDENT DEPARTMENT**

The Respondent Department filed a detailed counter-affidavit contesting all grounds of appeal:

- **On Rule 55(4):** Acknowledged the provision for subsequent invoicing but argued that the taxpayer must specifically establish why portal generation was impossible; mere possession of a delivery challan does not dispense with e-invoicing.

- **On Portal Failure:** Emphasized a timing discrepancy (e-way bill generated on 06.10.2022 at 7:20 PM; IRN acknowledged on 07.10.2022). Highlighted an early letter mentioned in MOV-09 attributing the lapse to "clerical mistakes," arguing that general assertions of portal difficulty without contemporaneous error logs are insufficient.

- **On Tax Evasion History & Intention:** Maintained that Section 129 proceedings rest on a clear documentary contravention at interception, rendering a history of tax evasion or *mens rea* irrelevant.

- **On Case Law Distinctions:**

- Distinguished ***Athiyan Exports v. State Tax Officer*** **[[2025] 176 taxmann.com 137 (Madras)]**, arguing that its relief was granted specifically for an **established export transaction**, which does not automatically extend to domestic inter-State supplies (Karnataka to Maharashtra).

- Distinguished ***M/s. Jhansi Enterprises v. State of U.P.*** [2024:AHC:37625], noting that while *Jhansi* involved a total lack of documents, the present case involves an e-invoicing failure despite a manual invoice and e-way bill being present.

7. **APPELLANT'S REJOINDER TO THE WRITTEN COUNTER**

In response to the Respondent Revenue's written counter, the Appellant filed a comprehensive Rejoinder countering the Department's contentions:

- **Inapplicability of Strict Liability to State-Side Failures:** Reasserted the principle that strict liability cannot be invoked when compliance is physically blocked by portal downtime.

- **Fallacy of Export vs. Interstate Distinction:** Argued that exports *are* inter-State supplies under Section 7(5) of the IGST Act, and e-invoice guidelines apply uniformly across all B2B supplies and ratio of Athiyan Exports applies to their case

- **Rebuttal on DRC-03 Payment:** Reaffirmed that paying a penalty under economic duress to release a detained commercial vehicle does not estop an assessee from challenging an illegal exaction in appellate forums, drawing support from the ratio laid down in ***Athiyan Exports v. State Tax Officer***

[[2025] 176 taxmann.com 137 (Madras)].

8. **OUR ANALYSIS AND REASONING**

We have carefully evaluated the rival contentions, the statutory provisions, the written counter filed by the Revenue, the rejoinder of the appellant written on the counter of Revenue, and the judicial precedents cited by both parties and the submissions of both the parties during oral hearings. Our considered legal findings are as below:

- **Harmonious Construction of Statutory Provisions and Operational Realities:** Section 68 of the Act read with Rule 138 requires the person in charge of a conveyance to carry the invoice and a valid e-way bill. Here, the Appellant fully complied with e-way bill requirements (EWB No. 1215 3734 6053 for vehicle MH14 GU9252). Furthermore, **Rule 55(4)** acts as a statutory safety valve for situations where tax invoices cannot be issued at removal. While Rule 48(4) and Rule 48(5) mandate e-invoicing for notified entities and invalidate non-portal invoices for input tax credit matching, they cannot be interpreted to penalize a taxpayer as a "tax evader" when an electronic generation failure is triggered by server congestion or downtime on the government's portal—evidenced by the fact that the IRN was successfully generated and acknowledged the very next morning on 07.10.2022. Section 129 targets clandestine operations and deliberate non-disclosure, not bonafide compliance hampered by technical glitches.

- **Paramountcy of *Mens Rea* under Section 129 — The Landmark Ratio in *Satyam Shivam Papers*:** Crucially, the Hon'ble Supreme Court of India in ***Assistant Commissioner (ST) v. M/s. Satyam Shivam Papers Pvt. Ltd.*** **[(2022) 14 SCC 157]** authoritatively established that the presence of *mens rea* (a deliberate intent to evade tax) is a *sine qua non* for the imposition of penalties under Section 129 of the CGST Act. The Apex Court held that mechanical penalization for technical or procedural reporting lapses—absent any finding or evidence of an intention to defraud the revenue—is completely unsustainable. In the present case, the physical consignment was accompanied by a valid e-Way Bill, a

commercial Invoice, and a Delivery Note, with zero mismatch in quantity, quality, value, or tax payment. The absence of the electronic IRN was due to a temporary portal glitch, which was subsequently rectified the same morning. In the complete absence of any contumacious conduct or fraudulent intent, invoking Section 129 to levy a crushing 200% penalty runs directly counter to the binding mandate of *Satyam Shivam Papers* [(2022) 14 SCC 157].

- **Invalidity of the Department's Case Law Distinctions:**

The Fallacy Regarding *Athiyan Exports v. State Tax Officer* [[2025] 176 taxmann.com 137 (Madras)]: The Department's attempt to distinguish *Athiyan Exports* on the ground that it involved an export invoice and therefore does not apply to inter-State movement is legally fallacious. Under Section 7(5) of the IGST Act, exports *are* inter-State supplies, and the e-invoice notification applies uniformly to all registered B2B transactions. An e-invoice is not a standalone separate invoice format, but rather the electronic authentication of commercial invoice data on the IRP. When an original commercial invoice accompanies the goods and zero mismatch or tax evasion is observed, treating the technical absence of an e-invoice as a fraudulent offense imposes an onerous and illegal burden under Section 129. Furthermore, the ratio of *Athiyan Exports* explicitly affirms that voluntary payment under economic duress via DRC-03 does not estop an assessee from challenging illegal penalties.

The Misapplication of *M/s. Jhansi Enterprises v. State of U.P.* [2024:AHC:37625]: The Department's reliance on *Jhansi Enterprises* is misplaced. *Jhansi* dealt with a total, catastrophic absence of foundational documents (neither an invoice nor an e-way bill accompanied the goods at interception). In sharp contrast, the Appellant meticulously maintained a valid e-Way Bill, manual Tax Invoice, and Delivery Note. The factual presumption in *Jhansi* cannot apply mechanically to a transaction possessing complete physical and financial transparency. Additionally, ratio from ***M/s. Nancy Trading Company v. State of U.P.*** [Writ Tax No. 892 of 2023] dictate that missing an e-invoice due to portal/human error with accompanying physical invoices/e-way bills is a venial technical mistake where Section 129 penalties cannot be sustained without proving *mens rea*.

- **Evaluation of the DRC-03 Payment:** The Department places heavy reliance on a preliminary letter mentioned in paragraph 15 of MOV-09 where clerical/portal issues were cited. We find that paying a penalty under protest via DRC-03 to secure the immediate release of a detained commercial vehicle is an act performed under severe economic duress to prevent transit delays and project disruption. As affirmed in settled jurisprudence such as *Athiyan Exports v. State Tax Officer* [[2025] 176 taxmann.com 137 (Madras)], such deposits do not bar a taxpayer from seeking substantive appellate redress.

9. **CONCLUSION**

In summation, this Tribunal finds that the detention of the Appellant's vehicle and the subsequent imposition of a 200% penalty under Section 129(1)(a) were founded on an over-rigid and legally flawed interpretation of e-invoicing norms during a period of acknowledged governmental portal downtime. The law cannot demand the impossible (*lex non cogit ad impossibilia*), nor can a technical delay in electronic IRN generation—when fully insulated by a valid e-Way Bill, a manual Tax Invoice, and a Delivery Note demonstrating absolute financial transparency and zero tax evasion intent—be converted into a fraudulent evasion scheme. In the absence of *mens rea* as mandated by the Hon'ble Supreme Court in *Satyam Shivam Papers*, and supported by the ratios of *Athiyan Exports* and *Nancy Trading Company*, the penal action taken by the revenue authorites is wholly unsustainable in law and hence, we order as below:

ORDER

1. The appeal is **allowed**.
2. The impugned order passed by the First Appellate Authority (*OrderNo. GST.AP.116/22-23 dated 28.08.2023*) upholding the penalty under Section 129(1)(a) of the CGST Act / IGST Act is hereby **set aside**.
3. The Respondent is directed to refund the 200% penalty amount paid by the Appellant via DRC-03 (aggregating to ?5,81,316) within **eight 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