GSTAT

State Bench Lucknow

Court No. Court I

APL/118/LCK/2026

AJENDRA KUMAR TRIPATHI **.....Appellant**

Versus

M/S BAJAJ ENTERPRISES, PROPRIETOR, D-9 117/K MOTI VIHAR SOCIETY SARVODAY NAGAR NAVEEN NAGAR UPKNN 208025 **.....Respondent**

Quorum

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

Counsel for Appellant
MR. ASHUTOSH MISHRA, ASSISTANT COMMISSIONER, SGST

Counsel for Respondent
MR. SANGRAM SINGH, 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. : ZA090371026000578H **Date of order :** 27/10/2026

1.	GSTIN/Temporary ID/UIN -	
2.	Appeal Case Reference no. - APL/118/LCK/2026	Date - 27/04/2026
3.	Name of the appellant - Ajendra Kumar Tripathi , ajju873@gmail.com , 9453949835	
4.	Name of the respondant - 1. M/S BAJAJ ENTERPRISES , amtchap@gmail.com , 9415044416	
5.	Order appealed against -	
	(5.1) Order Type - Enforcement Order	
	(5.2) Ref Number - KNP2/GST/0056/2020 Year 2019-20	Date - 12/03/2020
6.	Personal Hearing - 27/10/2026 28/09/2026 15/09/2026 08/09/2026 02/09/2026	

7.	Status of Order under Appeal - Reject - Order under Appeal is annulled
8.	Order in brief - The Department filed an appeal challenging the order dated 12.03.2020 passed by the First Appellate Authority, which had set aside the penalty imposed under Section 129(3) of the UPGST Act, 2017, amounting to Rs.47,11,649/-. The case arose when vehicle No. UP78DT0497, carrying lead ingots, was intercepted on 14.02.2020. Although the driver produced a tax invoice, e-way bill and bilty, the department noticed discrepancies regarding the actual loading locations, supplier details, cancellation and subsequent generation of e-way bills, and a shortage of 302.500 kg in the declared weight. The proper officer treated the transaction as suspicious and imposed tax and penalty under Section 129(3). However, the First Appellate Authority set aside the penalty, accepting the respondent's explanation that the goods were covered by valid documents and that the weight difference was minor. The Tribunal observed that the First Appellate Authority had failed to properly examine the cumulative effect of the discrepancies, including the supplier-wise weight variations, unexplained loading locations and the sequence of e-way bill generation and cancellation. It held that the mere availability of invoices and e-way bills did not conclusively establish the genuineness of the transportation when material inconsistencies remained unexplained.

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	359363.07	359363.07	359363.07	359363.07	0	0	0	0	718726.14	718726.14
(b) Interest	0	0	0	0	0	0	0	0	0	0
(c) Penalty	1996461.5	1996461.5	1996461.5	1996461.5	0	0	0	0	3992923	3992923
(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	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	The Appellate Authority held that the minor weight variation could be due to uncalibrated scales and that procuring goods from multiple vendors to fulfill an order does not constitute a violation. The authority quashed the MOV-09 order and directed the release of the goods and refund of any amounts deposited.	The appeal filed by the Department is allowed

Place :LUCKNOW

Signature

Date : 28.10.2026

LUCKNOW ANAMIKA DEVI

Designation : Stenographer/Law researcher

Jurisdiction :Lucknow

ORDER

The present appeal has been filed against the impugned Order-in-Appeal dated 29.02.2020, passed by the learned Additional Commissioner, Grade-2 (Appeal), State Tax, Kanpur, whereby the appeal preferred by the respondent against the penalty order passed under Section 129(3) of the UPGST Act, 2017, was accepted and tax and penalty amounting to ₹47,11,649.14/- was withheld.

2. Brief Facts of the Case

2.2. The facts of the case reveal that vehicle bearing Registration No. UP78DT0497 was intercepted by the proper officer during the intervening night of 13.02.2020 and 14.02.2020 near Pradhan Dhaba on the National Highway at Sikandra, Kanpur Dehat. The interception was recorded at approximately 03:24 AM on 14.02.2020 at Akbarpur, Kanpur Dehat. At the time of interception, the vehicle was carrying lead ingots falling under HSN Code 7801. The person in charge of the vehicle was examined, and his statement was recorded during the course of the proceedings.

2.3. At the time of interception, the driver produced Tax Invoice No. 08 dated 13.02.2020, issued by M/s Bajaj Enterprises, situated at 65-A, Gadarian Purwa, Kanpur, bearing GSTIN 09AFVPB1107R1Z0, along with E-Way Bill No. 491109644721 dated 13.02.2020 and Bilty No. 1001 dated 13.02.2020. The accompanying documents described the goods as lead ingots weighing 27,839.900 kg, having a value of Rs. 47,14,130.27, inclusive of GST. The goods were declared to be transported to M/s Vishal Metal Udyog, Masuri, Uttar Pradesh, bearing GSTIN 09AYYPS6125N1Z9.

2.4. Upon examination of the documents and physical verification of the goods, the proper officer noticed certain discrepancies concerning the actual places of loading, the identity of the suppliers, the particulars of the invoices and E-Way Bills, and the weight of the goods declared in the accompanying documents. The driver, in his statement recorded under oath, stated that the goods had been loaded from three different locations in Panki, Kanpur, namely, a factory situated in the lane near Panki Police Outpost, another factory near the LML factory, and a third location in D Block, Panki, near the jungle. He stated that the loading had been completed by approximately 08:00 PM and that the vehicle had remained parked at the loading location thereafter.

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2.5. The driver specifically denied that any goods had been loaded from the declared business premises of M/s Bajaj Enterprises at Gadarian Purwa, Kanpur. He further stated that the transport bilty and invoices had been received at Panki. The proper officer considered these statements inconsistent with the accompanying invoice and E-Way Bill, which indicated M/s Bajaj Enterprises as the supplier and declared its business premises as the dispatch location. On this basis, the department formed the view that the goods had been loaded from locations different from those reflected in the accompanying documents and that the invoices and E-Way Bills had been used to cover the transportation of goods loaded from such locations.

2.6. During physical verification, the proper officer segregated the goods into different portions of the vehicle on the basis of the driver's statement. The smoke-affected ingots loaded in the front portion were found to weigh 14,864.350 kg against the declared weight of 15,014.900 kg under the E-Way Bill issued by M/s Dheeraj Enterprises. The goods loaded in the middle and rear portions were found to weigh 12,673.050 kg against the aggregate declared weight of 12,825 kg under the E-Way Bills relating to the purchases shown from M/s Raj Traders and M/s Sonu Traders. The difference in the latter portion was recorded as 151.950 kg.

2.7. The total weight of the goods physically verified in the vehicle was recorded as 27,537.400 kg against the declared weight of 27,839.900 kg, resulting in a difference of 302.500 kg. The proper officer also observed that no weighment slip relating to the total loading of the goods had been produced to substantiate the declared weight. The representative of the supplier disputed the physical weighment on the ground that the departmental weighing scale was not properly calibrated. However, as recorded in the detention proceedings, no supporting evidence was furnished to establish that the departmental weighment was inaccurate, and the explanation regarding the difference in weight was not accepted by the proper officer.

2.8. The proper officer further scrutinised the documents relating to the purchases shown by M/s Bajaj Enterprises from M/s Dheeraj Enterprises, M/s Raj Traders and M/s Sonu Traders. It was observed that the goods were stated to have been loaded at Panki, whereas the declared business premises of M/s Raj Traders were situated at Dabouli West, Kanpur. The officer, therefore, questioned whether the goods had actually been supplied by the traders whose invoices and E-Way Bills had been produced during interception.

2.9. Another discrepancy related to E-Way Bill No. 471109631769, which had been generated by M/s Ganpati Enterprises at approximately 07:59 PM on 13.02.2020 and was subsequently cancelled. Thereafter, E-Way Bill No. 411109635903 was generated by M/s Sonu Traders at

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approximately 08:21 PM on the same date for goods weighing 5,015 kg against Invoice No. 72. The department considered the issuance and subsequent cancellation of the E-Way Bill suspicious, particularly in view of the statement that the goods had already been loaded. The officer also questioned the use of invoices bearing the same serial number in the transactions shown by the two firms. These circumstances were relied upon by the department to doubt the genuineness of the transactions and the correspondence between the goods transported and the documents accompanying them.

2.10. In response to the show-cause notice issued in FORM GST MOV-07, the representative of the respondent submitted explanation and contended that the goods had been purchased from three registered traders and that the purchases were supported by tax invoices and E-Way Bills issued by the respective suppliers. The representative maintained that the goods had been loaded directly from the suppliers' business premises and were being transported to the purchasing dealer, M/s Vishal Metal Udyog, Ghaziabad. The declared weight of 27,839.900 kg was reiterated, and the weight determined during departmental verification was disputed.

2.11. With regard to the cancellation of the E-Way Bill issued by M/s Ganpati Enterprises, the representative explained that Shri Manoj Kumar Shakya was the accountant of both M/s Ganpati Enterprises and M/s Sonu Enterprises. It was submitted that the E-Way Bill had inadvertently been generated through the login credentials of M/s Ganpati Enterprises and was cancelled upon detection of the mistake, following which a fresh E-Way Bill was generated by M/s Sonu Enterprises. Copies of Invoices Nos. 106 and 107 dated 14.02.2020 issued by M/s Ganpati Enterprises were also stated to have been enclosed with the reply. On the basis of these explanations, the representative requested that the proceedings initiated through FORM GST MOV-06 and FORM GST MOV-07 be dropped, contending that the transportation was supported by valid tax documents and that no irregularity had occurred.

2.12. The proper officer considered the written explanation and the documents available on record but found the explanation unsatisfactory. The officer relied principally upon the driver's statement that the goods had been loaded from three locations in Panki and that no goods had been loaded from the declared business premises of M/s Bajaj Enterprises at Gadarian Purwa, Kanpur. The officer also relied upon the difference between the declared business premises of M/s Raj Traders and the location from which the goods were stated to have been loaded, and treated the transaction shown between M/s Raj Traders and M/s Bajaj Enterprises as non-genuine in the detention order.

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2.13. The explanation concerning the cancellation and subsequent generation of the E-Way Bill was also rejected by the proper officer. The sequence of generation and cancellation of the E-Way Bills, the locations from which the goods were stated to have been loaded, the discrepancies in the declared quantities, and the absence of independent weighment records were considered indicative of an attempt to cover goods loaded from undeclared locations through documents issued by other firms. The officer accordingly concluded that the documents produced at the time of interception did not adequately establish that the goods in the vehicle were covered by the declared transactions. The claim of ownership of the goods was not accepted, and the case was treated as one in which the owner of the goods had not come forward.

2.14. In view of the discrepancies noticed during inspection, the proper officer detained the goods and the vehicle under Section 68(3) of the UPGST Act, 2017, read with the corresponding provisions of the Central Goods and Services Tax Act, 2017, by issuing an order in FORM GST MOV-06 dated 19.02.2020. A show-cause notice in FORM GST MOV-07 was thereafter issued, providing an opportunity to explain why the applicable tax and penalty should not be demanded for the release of the goods and vehicle. Upon consideration and rejection of the explanation submitted on behalf of the supplier, the officer proceeded under Section 129(1)(b) of the GST Act, treating the matter as a case in which the owner of the goods had not come forward to pay the applicable amount.

2.15. The proceedings culminated in the Order-in-Original dated 29.02.2020 under Section 129(3) of the UPGST Act, 2017, whereby the tax and penalty were determined at Rs. 47,11,649.00.

Aggrieved by the said order dated 29.02.2020 and the consequential determination of tax and penalty, the respondent filed an appeal the First Appellate Authority, challenging the action taken by the proper officer and the findings recorded in the detention and adjudication proceedings.The First Appellate Authority, vide Order-in-Appeal dated 12.03.2020, allowed the appeal, set aside the detention and seizure proceedings, and quashed the order dated 29.02.2020 imposing tax and penalty under Section 129(3) of the UPGST Act, 2017.

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3. Grounds of Appeal:

3.1 The Appellant challenges the impugned order dated 12.03.2020 passed by the Fist Appellate Authority on the following grounds:

3.2 The Fist Appellate Authority fundamentally erred by completely ignoring the sworn statement of the person in charge of the conveyance (the driver). Under Section 68 of the CGST/UPGST Act, read with Rule 138A, documents accompanying the goods must reflect the actual and factual movement of goods.

3.3 The driver explicitly admitted that the goods were loaded from three unnamed, unregistered factory premises in Panki, and not from the declared places of business of the suppliers, nor from the Respondent's registered address. By loading goods from undeclared premises, the transport documents were rendered invalid and bogus. The Fist Appellate Authority failed to appreciate that utilizing valid documents to cover illicit goods loaded from unregistered premises constitutes a blatant evasion of tax.

3.4 The Fist Appellate Authority erred in law and fact by trivializing the physical shortage of 302.50 KGs as a "minor discrepancy" attributable to weighbridge calibration. The physical verification was conducted lawfully under Rule 138C in the presence of the driver, who signed the MOV-04 report without raising any objection regarding the weighing scale's calibration at that time.

3.5 The discrepancy in weight is not merely a numerical error; it acts as concrete, physical evidence that the goods intercepted in the vehicle were not the specific goods invoiced by the suppliers. The Fist Appellate Authority 's reliance on generic web articles regarding weighbridge calibration to dismiss a statutory physical verification report is arbitrary, perverse, and legally unsustainable.

3.6 The Fist Appellate Authority demonstrated a flawed understanding of the facts by classifying the generation of E-way bills by two completely different legal entities (M/s Ganpati Traders and M/s Sonu Traders) using the exact same invoice number (72) and exact same weight (5,015 KG) as a mere "clerical error".

3.7 An invoice is a unique statutory document. Two separate GSTINs cannot legally issue the same invoice number for the same consignment simultaneously. This manipulation, executed post-loading to forcibly reconcile the physical goods with paper documents, is clear evidence of a pre-meditated design to accommodate bogus purchases. The Fist Appellate

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Authority's acceptance of a shared accountant's affidavit as gospel truth, without ordering an inquiry into the books of accounts, severely prejudices the Revenue.

3.8 The Fist Appellate Authority misdirected itself in law by concluding that the mere presence of an E-way bill and Tax invoice negates the intent to evade tax. The Department asserts that "intent to evade" is established not just by the absence of documents, but by the falsification of documents.

3.9 In the present case, the "intent to evade tax" is conclusively proven through a tripartite test: (a) Loading from unregistered/clandestine locations, (b) Physical mismatch of goods (weight shortage), and (c) Sequential manipulation and cancellation of E-way bills by different entities to fit the cargo. The Fist Appellate Authority treated the transaction as a bona fide back-to-back trading operation, wholly ignoring that the physical movement of goods actively contradicted the paper trail.

3.10 The Fist Appellate Authority placed misplaced reliance on judicial pronouncements, such as M/s. Raj Iron and Building Material vs. Union of India, which apply to cases involving minor procedural lapses without revenue implication. The present case does not involve a mere technical breach (like a wrong vehicle number or expired validity by a few hours); it involves substantive evasion where the origin of the goods is unregistered and unverified, and the documents are proven to be an afterthought to cover illicit movement.

4. Respondent Submission:

4.1 The respondent submitted that the decision/order dated 12.03.2020 passed by the First Appellate Authority contains a clear and detailed discussion, whereby the seizure/penalty order was set aside and the appeal of the respondent was allowed. Consequently, the decision/order passed by the First Appellate Authority is liable to be upheld.

4.2 That the Investigating Officer detained and seized a valid transaction and, thereafter, passed the penalty order dated 29.02.2020.

4.3 That the transaction in question was covered by the respondent-trader's Tax Invoice No. 8 dated 13.02.2020 and E-Way Bill No. 491100044721 dated 13.02.2020, and the goods covered by the said documents were being transported from Kanpur to Ghaziabad. The documents produced were valid and genuine. However, the Investigating Officer, disregarding the departmental circulars, detained and seized the goods in transit despite the availability of these valid documents and treated the respondent as an unregistered trader, thereby imposing

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a penalty equivalent to the value of the goods under Section 129(1)(b). An appeal was filed against the said penalty order dated 29.02.2020. After examining all the facts and circumstances, the First Appellate Authority allowed the appeal. The Department has, thereafter, filed the present appeal before the Hon'ble Tribunal against the order passed by the First Appellate Authority.

4.4 That, pursuant to the decision/order dated 12.03.2020 passed by the First Appellate Authority, the Investigating Officer released the seized goods vide MOV-05 dated 17.03.2020. The Department was not aggrieved by the decision/order dated 12.03.2020. Consequently, the appeal filed by the Department before the Tribunal is liable to be dismissed as having become infructuous.

4.5 The respondent-trader referred to the reply to the show cause notice presented before the Investigating Officer and the grounds of first appeal and stated that the decision/order passed by the First Appellate Authority deserves to be upheld.

4.6 The respondent submitted that the transaction has been questioned on the basis of the statement of the vehicle driver. Despite being requested by the respondent-trader, the alleged statement of the vehicle driver was not provided to the respondent. Therefore, the alleged statement of the vehicle driver would be inadmissible as evidence. In the absence of the same, the seizure/penalty order passed on the basis of the driver's statement is not sustainable in law, particularly when the respondent-trader's valid tax invoice and E-Way Bill were available with the goods.

4.7 The respondent referred to the decision of Hon'ble Allahabad High Court in the case of M/s Ravi Timbers v. Commissioner, Revision No. 230/2019, decided on 10.02.2020

Moreover, the statement of a truck driver cannot be the basis for initiating penalty proceedings. The statement of the truck driver recorded by the departmental officer is not corroborated by any evidence, and the said statement cannot be relied upon for initiating penalty proceedings. This Court finds that the action of the taxing department was not justified in initiating penalty proceedings in the absence of any material on record. The statement of the driver appears to have been made under duress, as the assessee had specifically raised this ground in its objection as well as in the appeal before the Tribunal, but the Tribunal neither considered the same nor recorded any finding thereon. The statement of a driver cannot be the sole basis for initiating penalty proceedings, and no intention to evade tax can be established from the driver's statement when all the relevant documents are available on record.

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4.8 The respondent submitted that the respondent-trader purchased the goods in question from three registered traders in Kanpur itself against their tax invoices and E-Way Bills and sold the same goods through the same vehicle to a registered trader in Ghaziabad against a tax invoice and E-Way Bill. The documents relating to the sale were available at the time of inspection.

4.9 The respondent submitted that the discrepancy in the weight of the goods has been made the basis of the proceedings. There was no discrepancy in the weight of the goods. As per the seizure order, the Department allegedly weighed the goods on a retail weighing scale and recorded the weight as 27,537.400 kg, whereas, according to the documents accompanying the goods, the weight was 27,839.900 kg.

4.10 In fact, the Department did not get the goods weighed on a weighbridge, nor has any weighment receipt been mentioned in the order. To avoid producing a weighment receipt, the Department repeatedly referred to weighing the goods on a small weighing scale in separate lots and allegedly recorded that the weight of the goods mentioned in the documents was in excess by 302.500 kg.

4.11 By showing 302.500 kg of goods in excess of the weight mentioned in the documents, the respondent-trader has accepted the tax applicable to the excess quantity. No element of tax evasion is discernible from the same. In any event, the difference of 302.500 kg is negligible in comparison with the bulk weight of the goods and the variations that may arise from weighing the goods in separate lots and on different weighing scales.

4.12 Apart from the above, such a minor shortage of goods, when compared with the total bulk weight, would be considered negligible. The respondent referred to the judgment of the Hon'ble Uttarakhand High Court in M/s Verma Enterprises, Village Keshowala, Bajpur, District Udham Singh Nagar v. Commissioner, Commercial Tax, Uttarakhand, Dehradun, Tax Revision No. 14 of 2008, decided on 11.07.2013, wherein it was held that:

"Concept of prevalent or non prevalent route—Minor difference of weight and in length of the bill not grounds of seizure of the goods—Seizure of goods illegal—Goods released without surety."

4.13 The respondent submitted that a clerical error cannot constitute a ground for seizure.

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4.14 The respondent submitted that no intention to evade tax is discernible from the transaction in question, and there is a complete absence of any such intention. The goods were being transported from Kanpur to Ghaziabad under the respondent-trader's Tax Invoice No. 8 dated 13.02.2020 and E-Way Bill No. 491100044721 dated 13.02.2020. No intention to evade tax can be inferred from these circumstances.

4.15 Further, even on the basis of the alleged excess quantity of goods, no conclusion regarding tax evasion can be drawn, particularly when the excess quantity of goods found in the documents was only 302.500 kg.

4.16 The respondent submitted that various judgments of the Hon'ble High Courts and departmental documents provide that goods in transit should not be seized when valid tax invoices and E-Way Bills are available with the goods, particularly when the seizure authority has not alleged tax evasion in the show cause notice or the seizure order.

4.17 The respondent referred to the legal position laid down in M/s Raj Iron Building Material v. Union of India, Writ Tax No. 826 of 2017, wherein the following observation was made:

"In view of the fact that in the present case there is no allegation of evasion of tax liability established either from the reading of the show cause notice or the seizure order of the penalty order the consequential penalty imposed appear to have been occasioned upon a mere technical breach and not on account of any intention to evade tax."

4.18 The respondent referred to the legal position laid down in M/s Prostar M Info System Limited v. State of U.P. and 3 Others, Writ Tax No. 1469 of 2024, dated 17.11.2026, Allahabad High Court.

4.19 The respondent submitted that the declared purchases and sales relating to the transaction in question are reflected in the returns, and the payments were made through banking channels. The goods in question were being transported from Kanpur to Ghaziabad under the respondent-trader's Tax Invoice No. 8 dated 13.02.2020 and E-Way Bill No. 491109644721 dated 13.02.2020. The documents produced were valid and genuine.

5. Discussion and Findings

5.1 We have carefully and meticulously examined the facts of the case, the original order dated 29.02.2020 passed under Section 129(3) of the Uttar Pradesh Goods and Services Tax

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Act, 2017, the appellate order dated 12.03.2020, the grounds of appeal filed by the Department, the submissions of the respondent and the material available on record. The principal issue for determination is whether the First Appellate Authority was justified in setting aside the penalty order despite the discrepancies recorded during interception and physical verification of the goods.

5.2 The record shows that vehicle No. UP78DT0497 was intercepted at approximately 03:24 AM on 14.02.2020 in the area of Sikandra/Akbarpur, District Kanpur Dehat, while transporting lead ingots falling under HSN 7801. The driver produced Tax Invoice No. 08 dated 13.02.2020 issued by M/s Bajaj Enterprises, E-Way Bill No. 491109644721 dated 13.02.2020 and Bilty No. 1001 dated 13.02.2020. The declared quantity of the goods was 27,839.900 kg and their value was stated to be Rs. 47,14,130/, inclusive of tax. The declared destination was M/s Vishal Metal Udyog, Masuri, Ghaziabad.

5.3 We find that the mere production of an invoice, e-way bill and bilty does not render the accompanying goods immune from verification. These documents are important evidence of a transaction and the intended movement of goods; however, their particulars must be consistent with the goods actually transported and the circumstances established during inspection. Where material discrepancies arise, the proper officer is entitled to examine whether the documents satisfactorily account for the identity, source and movement of the goods. The issue is, therefore, not merely whether documents existed, but whether the discrepancies noticed during verification were adequately explained.

5.4 The physical verification also recorded a total weight of 27,537.400 kg against the declared quantity of 27,839.900 kg, resulting in a difference of 302.500 kg. The discrepancy was a relevant circumstance requiring examination, particularly the quantities declared in individual consignments. The evidentiary significance of the weight difference must be assessed cumulatively, and not in isolation.

5.5 We find that the respondent has challenged the accuracy of the physical weighing and questioned whether the weighing equipment was duly calibrated. Such a contention may be relevant if supported by material demonstrating that the recorded weight was unreliable. However, a general objection to the weighing process, without adequate supporting evidence or a convincing reconciliation of the quantities, does not automatically invalidate the verification report. The First Appellate Authority was required to assess the weight discrepancy

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in the context of the complete inspection record rather than disregard it without a reasoned examination.

5.6 We find that the record further indicates that the quantity declared in the documents of M/s Dheeraj Enterprises was 15,014.90 kg, whereas the physically recorded quantity was 14,864. kg, showing a difference of 150.550 kg. Similarly, the quantity declared in the documents of M/s Sonu Traders/Sonu Enterprises was 5,015 kg, whereas the quantity attributed to that consignment during physical verification was recorded as 5,136.500 kg, showing an excess of 121.50 kg. A variation in the recorded number of ingots was also noted. These differences required a proper reconciliation with the invoices, loading records and other contemporaneous documents. Their relevance lies not in the assumption that every weight difference establishes evasion, but in the failure to satisfactorily explain the discrepancies in the context of the other circumstances of the case.

5.7 We find that the First Appellate Authority has failed to appreciate the weight discrepancy in its proper factual and legal perspective. The issue involved is not merely whether a difference of 302.500 kilograms, by itself, could establish tax evasion, but whether the discrepancy in the declared and physically verified quantity of goods, the inconsistencies in the supplier-wise documents and the absence of contemporaneous weighment evidence, furnished sufficient grounds for the Department to question the genuineness and proper coverage of the goods under the accompanying documents.

5.8 Thus, the quantity physically found in the vehicle was less than the quantity declared in the invoice and E-way bill. This was an objective discrepancy recorded in FORM GST MOV-04 and was not merely an assumption or an allegation unsupported by the departmental record.

5.9 We find that the First Appellate Authority has treated the difference in weight as a minor discrepancy, primarily on the basis of the respondent's contention that the departmental weighing scale was not properly calibrated and that the weighing operation was conducted on an uneven surface. However, the said explanation was accepted without any independent verification or supporting technical evidence establishing that the departmental weighment was inaccurate. The respondent's assertion regarding the alleged defective weighing scale, by itself, could not displace the result of the physical verification recorded by the proper officer in the prescribed statutory form.

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5.10 We find that it is relevant to note that the physical verification was conducted in the presence of the driver, who was the person in charge of the conveyance. The MOV-04 report specifically records the physical quantity of the goods and the difference between the declared and verified weight. The driver acknowledged the physical verification report. The record does not indicate that any contemporaneous objection regarding calibration of the weighing machine, its placement, the uneven surface or the correctness of the weighment was recorded at the time of verification.

5.11 We find that the contention that the departmental weighing scale was not permanently installed or that it was placed on an uneven surface cannot be accepted as a sufficient ground for invalidating the physical verification, particularly when no contemporaneous objection or independent weighment report was produced to establish that the recorded weight was erroneous. A technical objection concerning the accuracy of a weighing instrument must be supported by relevant material and cannot be accepted merely on the basis of an assertion made after the detection of the discrepancy.

5.12 Further, the physical verification was not confined to recording the total weight of the consignment. The proper officer examined the goods loaded in different portions of the vehicle and compared the physically verified quantities with the quantities declared in the respective supplier documents. The goods loaded in the front portion of the vehicle, comprising 22 stacks of ingots, were found to weigh 14,864.350 kilograms, whereas the corresponding supplier document declared 15,014.900 kilograms. Similarly, the goods loaded in the middle and rear portions of the vehicle, comprising 17 stacks and 8 loose ingots, were found to weigh 12,673.050 kilograms against the declared quantity of 12,825 kilograms. The aggregate physical weight was accordingly recorded as 27,537.400 kilograms against the declared quantity of 27,839.900 kilograms.

5.13 We find that these supplier-wise differences assume significance because they demonstrate that the discrepancy was not merely an isolated variation in the total weight recorded in the outward invoice of the respondent. The individual quantities claimed to have been purchased from the respective suppliers were also not found to correspond with the physical quantities verified by the Department.

5.14 Thus, the discrepancy of 302.500 kilograms was not the sole circumstance forming the basis of the proceedings. It was one of the material circumstances corroborating the

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Department's findings concerning the actual movement and documentary coverage of the goods.

5.15 The respondent has not demonstrated, by producing any contemporaneous weighment slip, independent weighment certificate or other reliable technical evidence, that the quantity recorded in the departmental report was incorrect. The submission that the departmental scale was not properly calibrated remains an allegation unsupported by any material establishing the actual inaccuracy of the recorded weight.

5.16 The respondent subsequently explained that the goods had been purchased from three registered dealers and transported directly to the respondent's buyer to avoid unnecessary unloading and reloading. However, the respondent's explanation does not, by itself, establish that the actual quantities loaded from the respective suppliers corresponded with the quantities declared in the supplier-wise invoices. The question was not merely whether the respondent was legally entitled to purchase goods from different registered dealers and arrange direct transportation to its buyer. The question was whether the goods actually found in the vehicle were the same goods, in the same quantities, as declared in the accompanying documents.

5.17 We find that the First Appellate Authority failed to appreciate this distinction. It accepted the appellant's explanation regarding direct transportation without adequately examining whether the physical quantities found in the vehicle were reconciled with the supplier-wise declarations.

5.18 The appellant also relied upon an article concerning the effect of an uneven surface on weighing accuracy. Such general technical material, even if accepted as explaining the possible effect of an uneven surface, does not establish that the particular departmental weighment in the present case was inaccurate. A general possibility of error cannot substitute for proof of actual error in the specific weighment conducted in the present case.

5.19 Accordingly, the respondent's explanation was insufficient to negate the evidentiary value of the physical verification report.

5.20 We find that the First Appellate Authority relied upon the judgment of the Hon'ble High Court of Uttarakhand in M/s Verma Enterprises, Village Keshowala, Bajpur, District Udham Singh Nagar v. Commissioner, Commercial Tax, Uttarakhand, Dehradun, Tax Revision No. 14 of 2008, decided on 11.07.2013.

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5.21 The said judgment was relied upon for the proposition that a minor difference in weight, by itself, may not constitute sufficient ground for seizure of goods.

5.22 However, the applicability of the said principle depends upon the facts and circumstances of the particular case. The judgment cannot be interpreted to mean that every discrepancy in weight must invariably be disregarded, irrespective of the existence of other material irregularities in the transportation documents and the movement of goods.

5.23 In the present case, the weight discrepancy was accompanied by other circumstances, including:

- The difference between the supplier-wise declared quantities and the physically verified quantities.
- The generation and cancellation of E-way bills relating to the same invoice number and quantity.
- The absence of contemporaneous weighment slips supporting the declared aggregate weight.

5.24 We find that the First Appellate Authority failed to examine whether these additional circumstances distinguished the present case from the factual situation considered in Verma Enterprises.

5.25 The impugned appellate order proceeds substantially on the premise that the goods were accompanied by an invoice and E-way bill and that the difference in weight was minor.

5.26 However, the existence of an invoice and E-way bill cannot, by itself, conclusively establish that the actual goods transported were fully covered by those documents when material discrepancies are found during physical verification.

5.27 The purpose of verification under Section 68 of the UPGST/CGST Act is to ascertain whether the goods being transported are accompanied by the prescribed documents and whether the particulars contained therein correspond with the actual movement of goods.

5.28 Another relevant circumstance concerns the e-way bills associated with the consignment documented in the name of M/s Sonu Traders. The record indicates that an earlier e-way bill, No. 471109631769, was generated in the name of M/s Ganpati Traders for the same invoice number and quantity and was subsequently cancelled. A further e-way bill, No. 411109635903, was generated thereafter. The respondent explained that the same accountant,

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Shri Manoj Kumar Shakya, had inadvertently used the login credentials of M/s Ganpati Traders and that the incorrect e-way bill was cancelled and replaced.

5.29 The generation and cancellation of an e-way bill do not, by themselves, establish an unlawful transaction. Nevertheless, the explanation offered must be examined against the relevant electronic records and the other circumstances of the movement. In the present case, the discrepancy assumes evidentiary significance because the record also contains differences in quantities. We find that the First Appellate Authority failed to determine whether the explanation was adequately supported by contemporaneous records and whether it satisfactorily reconciled the documentary sequence with the actual transportation of the goods.

5.30 The respondent has relied upon judicial decisions concerning minor differences in weight, technical errors in e-way bills and the requirement to establish an intention to evade tax. Those decisions must be applied in the factual context in which they were rendered. A single minor clerical error, in the absence of any other discrepancy and where the goods are otherwise fully accounted for, may not justify a penalty under Section 129. The present matter, however, cannot be determined solely by reference to the percentage of weight variation or the fact that the documents were available. The declared place of dispatch, the differences in the quantities recorded for individual consignments and the sequence of e-way bill generation required a collective assessment.

5.31 We find that the Fist Appellate Authority placed misplaced reliance on judicial pronouncements, such as M/s. Raj Iron and Building Material vs. Union of India, which apply to cases involving minor procedural lapses without revenue implication. The present case does not involve a mere technical breach (like a wrong vehicle number or expired validity by a few hours); it involves substantive evasion where the origin of the goods is unregistered and unverified, and the documents are proven to be an afterthought to cover illicit movement.

5.32 On examining the order of the First Appellate Authority, the material discrepancies recorded during interception and the explanations furnished by the respondent, we find that the cumulative effect of the evidence was not adequately addressed before the original order was set aside. The weight differences and the e-way bill sequence constituted additional circumstances requiring reconciliation. The respondent's explanation of an accounting error and its reliance on commercial records did not, without an adequate factual reconciliation, resolve all the inconsistencies recorded during verification.

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5.33 We find that the Fist Appellate Authority erred in law and fact by trivializing the physical shortage of 302.50 KGs as a "minor discrepancy" attributable to weighbridge calibration. The physical verification was conducted lawfully under Rule 138C in the presence of the driver, who signed the MOV-04 report without raising any objection regarding the weighing scale's calibration at that time.

5.34 The discrepancy in weight is not merely a numerical error; it acts as concrete, physical evidence that the goods intercepted in the vehicle were not the specific goods invoiced by the suppliers. The Fist Appellate Authority 's reliance on generic web articles regarding weighbridge calibration to dismiss a statutory physical verification report is arbitrary, perverse, and legally unsustainable.

5.35 We find that the Fist Appellate Authority demonstrated a flawed understanding of the facts by classifying the generation of E-way bills by two completely different legal entities (M/s Ganpati Traders and M/s Sonu Traders) using the exact same invoice number (72) and exact same weight (5,015 KG) as a mere "clerical error".

5.36 An invoice is a unique statutory document. Two separate GSTINs cannot legally issue the same invoice number for the same consignment simultaneously. This manipulation, executed post-loading to forcibly reconcile the physical goods with paper documents, is clear evidence of a pre-meditated design to accommodate bogus purchases. The Fist Appellate Authority's acceptance of a shared accountant's affidavit as gospel truth, without ordering an inquiry into the books of accounts, severely prejudices the Revenue.

5.37 We find that the Fist Appellate Authority misdirected itself in law by concluding that the mere presence of an E-way bill and Tax invoice negates the intent to evade tax. The Department asserts that "intent to evade" is established not just by the absence of documents, but by the falsification of documents.

5.38 In the present case, we find that the "intent to evade tax" is conclusively proven through: (a) Physical mismatch of goods (weight shortage), and (b) Sequential manipulation and cancellation of E-way bills by different entities to fit the cargo. The Fist Appellate Authority treated the transaction as a bona fide back-to-back trading operation, wholly ignoring that the physical movement of goods actively contradicted the paper trail.

5.39 In view of the above, we find merit in the Department's appeal against the order dated 12.03.2020. The respondent's contention that the presence of invoices and e-way bills

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conclusively establishes the legality of the transportation cannot be accepted without considering the material discrepancies identified during interception. The findings recorded above provide sufficient grounds to set aside the impugned appellate order and to uphold the Department's challenge on the merits of the evidentiary assessment.

Order

6.1. In view of the foregoing discussion and findings, the appeal filed by the Department is allowed. The order dated 12.03.2020 passed by the First Appellate Authority, is hereby set aside. The original order dated 29.02.2020 is restored,

27.X.26

(Santosh Kumar Srivastava)

27/10/26

(Arvind Kumar)

Dated: 27.10.2026

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