**GSTAT**

**State Bench Lucknow**

**Court No. Court I**

**APL/239/LCK/2026**

RAVISH KUMAR SINGH **.....Appellant**

**Versus**

M/S MANI PLY, PROPRIETOR, NEAR BANGLA BAZAR BHADRUKH SHARDA NAGAR UPLUC 226002 **.....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**
SHRI. R.K. PANDEY, 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. :** ZA090371026000631H **Date of order :** 27/10/2026

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|---|---|---|
| **1.** | GSTIN/Temporary ID/UIN - 09ACNPJ1608E1ZR | |
| **2.** | Appeal Case Reference no. - APL/239/LCK/2026 | Date - 22/04/2026 |
| **3.** | Name of the appellant - RAVISH KUMAR SINGH , ravish.831979@gov.in , 9415257486 | |
| **4.** | Name of the respondant -<br>1. M/S MANI PLY , maniplyrbl@gmail.com , 9415111663 | |
| **5.** | Order appealed against - AD090923003220J | |
| | **(5.1) Order Type** - Enforcement Order | |
| | **(5.2) Ref Number** - ZD090624222521L | Date - 28/06/2024 |
| **6.** | Personal Hearing - 27/10/2026 28/09/2026 15/09/2026 11/09/2026 31/08/2026 14/08/2026 10/08/2026 06/08/2026 | |

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|---|---|
| **7.** | Status of Order under Appeal - Confirmed – Order under Appeal is confirmed |
| **8.** | Order in brief - The Department filed a second appeal under Section 112(3) of the CGST/UPGST Act, 2017, challenging the Order-in-Appeal dated 28.06.2024, passed in the case of M/s Mani Ply, whereby the penalty imposed under Section 129(3) was reduced from Rs.57,870 to Rs.5,3754. The case arose when a vehicle transporting shuttering plywood was intercepted on 18.07.2023. The tax invoice and e-way bill covered 418 pieces, whereas physical verification revealed 450 pieces, resulting in an excess quantity of 32 pieces. The Proper Officer imposed a penalty of Rs.57,870 on the entire consignment. However, the First Appellate Authority restricted the penalty to the excess quantity alone. The Department challenged the reduction, contending that transportation of goods in excess of the declared quantity constituted a statutory violation warranting penalty on the entire consignment. The respondent maintained that 418 pieces were duly covered by valid documents and that the penalty should be confined to the excess goods. Upon examination, the Tribunal held that the contravention was established only in respect of the additional 32 pieces and that there was no sufficient evidence to treat the remaining 418 documented pieces as goods transported in violation of the Act. |

## Summary of Order

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|---|---|
| **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** | 28935 | 0 | 28935 | 0 | 0 | 0 | 0 | 0 | 57870 | 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 | AS PER ATTACHED APL 07 | The present departmental appeal is hereby dismissed |

Place :LUCKNOW

Signature

Date : 29.10.2026

LUCKNOW ANAMIKA DEVI

Designation : Stenographer/Law researcher

Jurisdiction :Lucknow

**ORDER**

**1. BRIEF FACTS OF THE CASE**

1.1. The present appeal has been preferred by the Department under Section 112(3) of the CGST/UPGST Act, 2017, against Order-in-Appeal No. 74 dated 28.06.2024, passed by the Additional Commissioner, Grade-II (Appeal)-4th, State Tax, Lucknow, whereby the First Appellate Authority partly allowed the appeal filed by M/s Mani Ply and modified the penalty order dated 19.07.2023 passed by the Assistant Commissioner, Mobile Squad Unit-4, Lucknow, under Section 129(3) of the CGST/UPGST Act, 2017.

1.2. The facts giving rise to the present appeal are that on 18.07.2023, at approximately 03:33 AM, vehicle bearing registration No. UP33T6106 was intercepted by the Mobile Squad Unit-4, Lucknow, at Ring Road, Lucknow. The said vehicle was transporting shuttering plywood from M/s Mani Ply, Raebareli, to M/s Purvanchal Ply, Lucknow. At the time of interception, the person in charge of the vehicle produced Tax Invoice No. MP/23-24/90 dated 17.07.2023 and E-way Bill No. 401353519731 dated 17.07.2023 in support of the transportation of goods.

1.3. Upon verification of the documents accompanying the goods and the physical quantity loaded in the vehicle, the Mobile Squad authorities noticed a difference between the quantity declared in the tax invoice and e-way bill and the quantity actually found during physical verification. The documents reflected 418 pieces of shuttering plywood measuring 1244.3024 square meters, whereas the physical verification revealed 450 pieces measuring approximately 1339.56 square meters. Thus, an excess quantity of 32 pieces, measuring approximately 95.258 square meters, was detected.

1.4. On the basis of the aforesaid discrepancy, the Proper Officer initiated proceedings under Section 129 of the CGST/UPGST Act, 2017, alleging contravention of Section 31 and Rules



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46 and 138 of the CGST/UPGST Rules, 2017. Consequently, a notice in Form GST MOV-07 was issued on 19.07.2023, followed by an order in Form GST MOV-09 bearing No. ZD0907231001202 dated 19.07.2023, whereby a penalty amounting to Rs. 57,870/- was imposed by taking into consideration the value of the entire consignment.

1.5. Being aggrieved by the said penalty order, M/s Mani Ply preferred First Appeal No. 101/2023 before the Additional Commissioner, Grade-II (Appeal)-4th, State Tax, Lucknow. It was contended that the consignment was accompanied by a valid tax invoice and e-way bill covering 418 pieces of shuttering plywood and that the transaction was duly recorded in the regular books of account. It was further submitted that the consideration for the supply, including the applicable GST, had been received through banking channels. The principal grievance was that the Proper Officer had imposed penalty on the entire consignment, although the alleged discrepancy related only to 32 excess pieces.

1.6. The First Appellate Authority, after examining the material available on record, observed that the documents accompanying the vehicle duly covered 418 pieces of shuttering plywood measuring 1244.3024 square meters. The discrepancy was confined to the additional 32 pieces measuring approximately 95.258 square meters, which were not covered by the accompanying documents. The First Appellate Authority further observed that the value of the excess goods, calculated at Rs. 120/- per square meter, was approximately Rs. 11,431/-, whereas the Proper Officer had calculated the penalty by taking the entire consignment value of Rs. 1,60,748/-.

1.7. The First Appellate Authority accordingly held that the imposition of penalty with reference to the entire consignment was not justified when the alleged contravention related only to the excess quantity. It was therefore held that the penalty was liable to be confined to the undocumented excess goods. Consequently, the First Appellate Authority partly allowed



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the appeal and modified the original penalty order by reducing the penalty from Rs. 57,870/- to Rs. 5,3754/-, with consequential benefits to the taxpayer.

1.8. Aggrieved by the aforesaid appellate order, the Department has preferred the present second appeal, contending that transportation of goods in excess of the quantity declared in the invoice and e-way bill constitutes a contravention of the statutory provisions and indicates an intention to evade payment of tax. The Department has accordingly prayed for setting aside the order dated 28.06.2024 and restoration of the original penalty of Rs. 57,870/- imposed by the Proper Officer.

**3. GROUNDS OF APPEAL**

3.1. The appellant (Department) has challenged the impugned Order-in-Appeal on the ground that the First Appellate Authority failed to appreciate the nature and seriousness of the contravention detected during the course of interception and physical verification of the goods. According to the Department, the transportation of goods in excess of the quantity declared in the tax invoice and e-way bill constitutes a violation of the provisions of the CGST/UPGST Act, 2017 and the Rules framed thereunder.

3.2. The appellant has stated that the vehicle was found carrying 450 pieces of shuttering plywood, whereas the tax invoice and e-way bill disclosed only 418 pieces. The excess quantity of 32 pieces was not supported by the accompanying statutory documents. It is contended that the said discrepancy was duly established through physical verification and was sufficient to justify proceedings under Section 129 of the Act.

3.3. The appellant has further contended that the First Appellate Authority erred in restricting the penalty only to the excess quantity of goods. It is submitted that once a contravention of the statutory provisions governing transportation of goods is detected, the Proper Officer is



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empowered to initiate proceedings in respect of the goods transported in contravention of the Act and Rules.

3.4. The appellant has also submitted that transportation of goods in excess of the declared quantity indicates an intention to evade payment of tax. According to the Department, the excess quantity would have remained unaccounted for had the vehicle not been intercepted and subjected to physical verification. The Department therefore contends that the discrepancy cannot be treated merely as a minor or technical irregularity.

3.5. The appellant has further contended that Section 129 of the CGST/UPGST Act, 2017 provides for detention, seizure and imposition of penalty in cases involving contravention of the statutory provisions relating to transportation of goods. It has been argued that proof of a separate or independent intention to evade tax is not an indispensable requirement in every case involving contravention of the said provisions.

3.6. The appellant has relied upon certain judicial pronouncements, including M/s Kapil Transport v. State of Uttar Pradesh, M/s Podaran Foods India Pvt. Ltd. v. State of Kerala, Indus Towers Ltd. v. Assistant State Tax Officer and K.P. Sugandh Ltd. v. State of Chhattisgarh, in support of its contention that transportation of goods without proper statutory documentation may attract proceedings under Section 129 of the Act.

3.7. The appellant has accordingly submitted that the First Appellate Authority committed an error in modifying the original penalty order and that the order dated 28.06.2024 is liable to be set aside. It has therefore been prayed that the present departmental appeal be allowed and the original penalty of Rs. 57,870/- be restored.



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## 4. SUBMISSION OF THE APPELLANT

4.1. The appellant Department has submitted that the Proper Officer had initiated proceedings under Section 129 of the CGST/UPGST Act, 2017 after detecting a material discrepancy in the quantity of goods being transported. The Department has emphasized that the physical verification clearly established the presence of 450 pieces of shuttering plywood against the declared quantity of 418 pieces.

4.2. It has been contended that the excess quantity of 32 pieces was not supported by any corresponding tax invoice or e-way bill at the time of interception. The appellant has therefore submitted that the goods were being transported in contravention of Section 31 and Rules 46 and 138 of the CGST/UPGST Rules, 2017.

4.3. The appellant has further submitted that the statutory requirements relating to the issuance of tax invoices and generation of e-way bills are intended to ensure transparency and accountability in the movement of taxable goods. Any material discrepancy between the declared quantity and the actual quantity being transported, according to the Department, undermines the statutory mechanism designed to prevent unaccounted movement of goods.

4.4. The appellant has argued that the presence of excess goods in the vehicle creates a reasonable basis for suspecting an attempt to evade payment of tax. It has further been submitted that the First Appellate Authority failed to appreciate that the discrepancy was detected only upon physical verification conducted by the Mobile Squad authorities.

4.5. The appellant has also contended that Section 129 is attracted upon the establishment of contravention of the relevant statutory provisions and that the Department is not required, in every case, to establish an independent intention to evade tax before initiating action under the said provision.



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4.6. The appellant has accordingly submitted that the First Appellate Authority was not justified in restricting the penalty to the excess quantity alone and that the original order passed by the Proper Officer was legally sustainable. The Department has therefore prayed for setting aside the impugned Order-in-Appeal and restoring the penalty originally imposed.

**SUBMISSION OF THE RESPONDENT**

**1.** That the respondent submitted that the goods in question were being transported under Tax Invoice No. 90 dated 17.07.2023 and E-Way Bill No. 401353519731. The transaction was duly recorded in the regular books of account, and payment was received through banking channels.

**2.** The respondent contended that the discrepancy in the quantity of goods noticed during physical verification should be considered in the light of the documents and explanation furnished by the respondent. The respondent maintains that the facts and circumstances of the case deserve consideration while determining the applicability of the penalty under Section 129 of the UPGST/CGST Act, 2017.

**3.** The First Appellate Authority, vide order passed in Appeal No. 101/2023, partly allowed the appeal and reduced the penalty by ₹53,754.00. The respondent relies upon the findings recorded in the said appellate order and submits that the relief granted therein is justified in the facts and circumstances of the case.

**4.** In view of the above submissions, the respondent prays that the grounds raised by the Department in the present second appeal be considered on their merits and that the order passed by the First Appellate Authority be maintained to the extent warranted by the facts and applicable provisions of law.



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## 5. FINDINGS AND DISCUSSION

5.1. We have carefully examined the impugned Order-in-Appeal, the original penalty order, the grounds raised in the departmental appeal and the material available on record. The principal issue requiring determination is whether the First Appellate Authority was justified in restricting the penalty to the excess quantity of goods found during physical verification, instead of sustaining the penalty imposed on the entire consignment.

5.2. It is an admitted fact that vehicle No. UP33T6106 was intercepted on 18.07.2023 while transporting shuttering plywood from M/s Mani Ply, Raebareli, to M/s Purvanchal Ply, Lucknow. It is also undisputed that Tax Invoice No. MP/23-24/90 dated 17.07.2023 and E-way Bill No. 401353519731 dated 17.07.2023 were produced at the time of interception. The said documents covered 418 pieces of shuttering plywood measuring 1244.3024 square meters.

5.3. The physical verification conducted by the Mobile Squad authorities revealed 450 pieces of shuttering plywood measuring approximately 1339.56 square meters. Thus, the discrepancy was confined to 32 additional pieces measuring approximately 95.258 square meters. The existence of the excess quantity is not in dispute. However, the mere existence of such excess quantity does not automatically establish that the entire consignment was being transported without valid statutory documents.

5.4. We find that the First Appellate Authority has correctly distinguished between the quantity duly covered by the accompanying tax invoice and e-way bill and the additional quantity found without corresponding documents. The documentary evidence available on record establishes that 418 pieces were covered by the requisite documents. Therefore, the allegation of non-compliance cannot, without further supporting evidence, be extended to the entire consignment merely because 32 excess pieces were detected.



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5.5. Section 129 of the CGST/UPGST Act, 2017 provides for detention, seizure and release of goods and conveyances in transit in cases involving contravention of the provisions of the Act or Rules. However, the exercise of powers under the said provision must be founded upon the nature and extent of the contravention established from the record. The authority imposing penalty is required to examine the relevant facts and determine the goods in respect of which the statutory contravention has actually occurred.

5.6. In the present case, the Appellant has established that 32 pieces of shuttering plywood were found in excess of the quantity declared in the tax invoice and e-way bill. Nevertheless, the Department has not brought any cogent material on record to establish that the remaining 418 pieces were transported without valid documents, that the documents accompanying the said quantity were false or fabricated, or that the declared transaction was fictitious.

5.7. The allegation of intention to evade tax must be considered in the light of the circumstances of each case. Although Section 129 may be attracted upon the establishment of a statutory contravention without proof of a separate dishonest intention in every case, an allegation of deliberate tax evasion cannot be presumed against the entire consignment without adequate factual foundation. In the present matter, the Department has not demonstrated how the discrepancy relating to 32 pieces justified treating all 450 pieces as goods transported in contravention of the statutory requirements.

5.8. We further find that the First Appellate Authority did not completely absolve the taxpayer of liability arising from the discrepancy. On the contrary, the First Appellate Authority specifically acknowledged that 32 pieces of shuttering plywood were found in excess of the declared quantity and held that penalty was warranted in respect of the said excess goods. The appellate interference was therefore confined to correcting the basis on which the original penalty had been calculated.



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5.9. The value of the excess quantity was determined by the First Appellate Authority at approximately Rs. 11,431/-, calculated at Rs. 120/- per square meter. On that basis, the First Appellate Authority determined the penalty attributable to the excess goods and reduced the original penalty from Rs. 57,870/- to Rs. 5,3754/-. The Department has not demonstrated any specific error in the identification of the documented and undocumented quantities that would justify restoring the penalty on the entire consignment.

5.10. We are therefore of the considered view that the First Appellate Authority adopted a reasoned approach by distinguishing the documented quantity from the excess quantity. The Department has failed to establish any factual or legal basis sufficient to demonstrate that the First Appellate Authority acted arbitrarily or committed any material error in making such distinction.

5.11. In view of the foregoing discussion, we hold that the Department has failed to establish sufficient grounds for interference with the impugned Order-in-Appeal. The mere detection of 32 excess pieces, without further evidence concerning the remaining documented goods, does not justify restoration of the penalty imposed on the entire consignment. Accordingly, the findings recorded by the First Appellate Authority warrant affirmation.

**6. ORDER**

6.1. In view of the facts and circumstances of the case, the material available on record and the findings recorded hereinabove, we are of the considered opinion that the appellant Department has failed to establish any legal infirmity, perversity or material irregularity in Order-in-Appeal No. 74 dated 28.06.2024, passed by the Additional Commissioner, Grade-II (Appeal)-4th, State Tax, Lucknow.



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6.2. Accordingly, the present departmental appeal is hereby dismissed, and Order-in-Appeal No. 74 dated 28.06.2024, passed in Appeal No. 101/2023, is hereby Upheld and Confirmed.

6.4. The appeal stands disposed of in the above terms.

(Santosh Kumar Srivastava)

(Arvind Kumar) 27/10/26

**Dated: 27.10.2026**



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