GSTAT

State Bench Agra

Division Bench Court No. Court I

APL/1/AGR/2026

MG TRADERS **.....Appellant**

Versus

RUBY SINGH, ADDITIONAL COMMISSIONER GRADE-2, APPEAL -2 AGRA & ORS. **.....Respondent**

Quorum

Hon'ble Ajeet Singh, Member(Judicial)
Hon'ble Vivek Kumar, Member (Technical)

Counsel for Appellant
M.P KULSHRESTHA

Counsel for Respondent
MUKESH KUMAR, AUTHORIZED REPRESENTATIVE

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. : ZA090401026000219H **Date of order :** 30/10/2026

1.	GSTIN/Temporary ID/UIN - 09DJCPG6204A1ZT	
2.	Appeal Case Reference no. - APL/1/AGR/2026	Date - 07/02/2026
3.	Name of the appellant - MG TRADERS , DARSGST@GMAIL.COM , 6392753317	
4.	Name of the respondant - 1. Shri Prakash Yadav Joint Commissioner(IT) State Tax Headquarters Lucknow , ctithqlu-up@nic.in , 7235002314 2. RUBY SINGH	
5.	Order appealed against - AD090822033022H	
	(5.1) Order Type - Enforcement Order	
	(5.2) Ref Number - ZD0907241224098	Date - 18/07/2024

6.	Personal Hearing - 30/10/2026 06/10/2026 15/09/2026 28/07/2026 22/07/2026 20/05/2026 13/05/2026 08/05/2026
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief - This second appeal filed by the taxpayer is devoid of merit and accordingly dismissed by upholding the concurrence findings recorded by learned adjudicating officer and first appellate authority, as well.
Summary of Order	
9.	If demand order then whether demand quantified: No

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	Goods Transported by Expired Eway bill.	AGRA BENCH

Place :AGRA

Date : 30.10.2026

Signature

AGRA Sandeep Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Agra

ORDER

Per. Ajeet Singh (Judicial Member)

MG TRADERS, Jhansi (U.P)

Vs

Commissioner State Tax (U.P)

APL/1/AGR/2026

(Passed on 30th day of October, 2026)

1. Being aggrieved by the order dated 01.07.2024 passed by First appellate authority/ Additional Commissioner Gr.II, appeals, State tax Agra in first appeal no. AAGR000536/2022, Present appeal has been preferred u/s 112(1) Central Goods and Services Tax, Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017 (for short CGST/UPGST, Act) by taxpayer. Vide impugned order first appeal filed by appellant/taxpayer has been dismissed by upholding order of adjudicating officer pertaining to imposition of penalty and fine total in Rs. 1,78,288/- u/s 129(3) of CGST/UPGST, Act. For shake of convenience here-in-after in the order, appellant and respondent will be addressed as taxpayer and department, respectively.
2. Facts giving rise to present appeal are in brief that on 05.05.2022, Assistant Commissioner, Mobile squad, fifth unit, Agra had intercepted a loaded truck bearing registration on. RJ 14 GH 9338 running on the road. On being verifying the papers it was found that supplier firm M/s MG traders Jhansi, U.P, having GSTIN 09DJCPG6204AIZT had supplied goods to recipient firm M/s Premiere Oil Mill, Alwar, Rajasthan having with GSTIN 08AAOFP3645EIZA for which tax invoice no. 05 dated 01.05.2022 and e-way bill no. 451248313761 were issued from the point of movement of goods. It was also found that at the time of interception e-way bill has already been expired. Incharge of mobile squad had reached to the conclusion that goods were in transit were transported without e-way bill which is violation of section 129 of CGST/UPGST, Act, read with rule 138 of CGST rules 2017. In view of this Mobile squad incharge detained and seized the goods u/s 129(1) of CGST/SGST, Act. SCN was issued accordingly to the appellant taxpayer and ultimately by invoking powers conferred by section 129(3) seizing/adjudicating officer imposed the penalty of Rs. 1,78,278/- on appellant/taxpayer by order dated 05.05.2022.
3. Taxpayer had filed first appeal unsuccessfully as order of adjudicating officer was upheld by first appellate authority, hence this second appeal by taxpayer in which learned counsel appearing for taxpayer has submitted that appeal be allowed and order passed by first appellate authority as well as Order-in-Original passed by proper officer resulting imposing said penalty be set aside.
4. On *contrario sensu*, learned authorized representative for department has supported the findings recorded by first appellate authority and submitted to dismiss the appeal.

5. We have been heard the arguments of both sides and perused the record uploaded on the GSTAT Portal. It is admitted or not in dispute that at the time of alleged interception of the loaded vehicle on 05.05.2022, e-way bill had already been expired. Learned counsel appearing for taxpayer has submitted that on the way the vehicle in which goods were being transported had broken down but due to ignorance of the driver such broke down was not uploaded or communicated to the owner of the goods.
6. In view of above rival contentions made by learned authorized representatives, the questions for determination before this tribunal may be formulated as under.
    1. Whether expiry of e-way bill in transit would amounting to violation of section 129(1) CGST/UPGST, Act read with rule 138 of CGST rules 2017?
    2. Whether in the facts and circumstances of the case in hand, learned first appellate authority has rightly dismissed the first appeal?

Findings with reasons

7. It is not in dispute that goods which were being transported on the relevant day and time were *Moongfali Dana*, it is also not in dispute that whereas goods were found as per specifications, all other relevant papers such as invoice, consignment note were also in order. There was no difference of quantity of goods with quantity mentioned in invoice. Contention of taxpayer is that, on the way vehicle suffered with breakdown and on account of that e-way bill got expired.
8. In so far, breakdown in the vehicle concerned taxpayer has produced few repairing slips before adjudicating officer but if vehicle was got repaired in the transit such slips would have been accompanied with the papers possessed by driver and produced before mobile squad officer but same are seemed to be produced in adjudicating process. While naturally they should have been shown to mobile squad officer at the time of interception. E-way bill in question was issued on 01.05.2022 for a distance of 383 km between Jhansi, U.P and Alwar, Rajasthan. Apart from that at the time of interception when vehicle was intercepted and driver was interrogated by mobile squad officer, he should have narrated about breakdown in vehicle on the way. Therefore, argument regarding breakdown in vehicle in the transit is not acceptable.
9. Learned counsel appearing for taxpayer has contended that department was required to show that fact of expiring of e-way bill was coupled with the intention to evade tax of taxpayer and without showing such a circumstance he would not be liable for any penalty u/s 129(3) of CGST, Act.
10. To buttress his submissions learned authorized representative appearing for appellant/taxpayer has cited case law in **GLOBE PANE 2024(2) TMI 363(ALL.)** in which it has been held that one of two e-way bills had expired, invoices and e-way bill otherwise matched the goods, consigner and consignee were undisputed and the transporter produced evidence of vehicle breakdown with fastag movements in such circumstances Hon'ble High court held that a technical violation of not renewing an expired e-way bill in time cannot by itself sustain penalty. Facts and circumstance of the present case are at all different from the case cited as breakdown in vehicle related documents were not reliable, no fastag movement was shown therefore, ruling of case cited by taxpayer would not apply here.

11. Apart from above, learned counsel appearing for Appellant/taxpayer has also drawn our attention to the principle laid down in the matters **Roli enterprises vs State of U.P, writ tax no. 937/2022, Allahabad, R.S industrial solutions vs Additional Commissioner writ tax no. 684/2024 Allahabad, Precision tools India vs State of U.P writ tax no. 415/2023 Allahabad** and **Banaras Industries vs Union of India writ tax no. 597/2022 Allahabad.**
12. In **Roli enterprises and R.S industrial (Supra)** it was held that penalty can not be imposed solely for leaving part-B in e-way bill blank if the accompanying invoice contains the vehicle details and there is no intention to evade tax. In the present matter part-B of alleged e-way bill was not kept blank but was filled up by mentioning entirely different registration no. of the vehicle form the vehicle in which goods were being actually transported. Leaving the part-B of the e-way bill blank inadvertently and deliberately mentioning entirely different registration no. are different things and can not be equated to each other. Therefore, observations made in above two case laws would not be applicable here. In the same manner in **Precision tools India (Supra)** though, part-A of e-way bill was correctly filled up but part-B could not be generated due to technical difficulties it was held that in absence of intent to evade tax or clear *mens rea* penalty cannot be imposed for omission of filling up part-B of e-way bill. As stated earlier in the present matter part-B of e-way bill was not kept blank but entirely different number from the vehicle in which goods were being transported was written therein.
13. Facts and question for determination in case of **Banaras industrials (Supra)** are different with the case in hand and therefore, principle laid down in this case law also not applicable here.
14. Learned AR appearing for department has cited case laws titled **Union of India vs Dharmendra textiles processors (2008) 231ELT3 (SC), BM Computers vs Commissioner Commercial taxes and others (2025) (4) TMI810 Allahabad, Jhansi enterprises vs state of U.P and others (2024) Allahabad** and **Famus India ltd. Vs state of U.P (2024) Allahabad**.
15. Facts and question for determination in case of **Banaras industrials (Supra)** are different with the case in hand and therefore, principle laid down in this case law also not applicable here.
16. Hon'ble Supreme Court of India in **Union of India vs Dharmendra textile processors (Supra),** has established foundational principles regarding statutory penalty provisions in fiscal legislation. It was held by Hon'ble Apex court that statutory penalties imposed for infractions under Revenue statues (such as section 11AC of Central Excise Act, 1944 or Section 271(1) (c) of Income tax Act, 1961 constitutes civil liability meant to remedy the loss of Revenue. It is further held that *mens rea* is not an essential element for attracting civil penalties under fiscal statues unless specifically incorporated in to the text of the provision. It is also held by Hon'ble Apex court that courts can not supply words or read *mens rea* in to a tax provision where the statue is clear and unambiguous and court must give effect to the plain language of the statues as written by the legislation. Though, the case **Dharmendra (Supra)** had arisen out of the provisions of Central excise Act, 1944 and case in hand has arisen out of the provisions of Central goods and services Act, 2017 and similarly enacted UP Goods and Services Tax. 2017 but in both the fiscal laws the relevant provisions in respect of evasion of tax are *in pari materia* and thus in our considered opinion ratio laid down by Hon'ble Supreme Court in **Dharmendra (Supra)** would be applicable to the case at hand.
17. In cases **Jhansi enterprises and B.M Computers (Supra)** it has been held by Allahabad High court that incorrect or incomplete e-way bill justifies the penalty u/s 129 read with rules 138 of CGST, Act and rules 2017 respectively. In M/s B.M Computer (Supra) decided by Hon'ble Allahabad High Court on 10.04.2025 re-affirmed strict procedural compliance regarding the e-way bill mechanism u/s 129 of

CGST/UPGST Act, 2017. It is further held by the High Court that movement of goods without fully completed e-way bill specifically where its part-B is omitted prior to transit violates rule 138 of CGST rules, merely generating part-A does not full fill statutory compliance. It is also held in that case that transporting consignments with an incomplete e-way bill creates a rebuttable presumption of and intention to evade tax and thereafter onus shifts entirely to the dealer/consigner to rebutte such presumption with credible positive evidence or by surrounding circumstances of that particular matter.

18. Though, it is true and well-established principle of law that department is required to show an intention to evade tax of taxpayer and in absence thereof penalty cannot be imposed in the grab of section 129, CGST, Act read with rule 138 of CGST rules 2017. Intention of a person is a mental state of mind and no positive evidence can be given by the department as it is commonly said that “Not even the devil himself can discern the secret thoughts of man’s heart”. However, intention of a person or mens rea may be gathered from the facts and surrounding circumstances of a particular case.
19. Thus, in the back drop of above discussion of the facts we are of the considered opinion that at the relevant time on interception of the vehicle in question it was found that goods were being transported on expired e-way bill which is tantamount of no e-way bill. Transportation of goods in such a way is violation of section 129(1) of CGST, Act read with rule 138 which attracts the imposition of penalty u/s 129(3) of the same act. Accordingly, question no. (i) & (ii) formulated in para no. 6 are answered against the appellant/taxpayer.
20. Consequently, the second appeal filed by the taxpayer is devoid of merit and accordingly dismissed by upholding the concurrence findings recorded by learned adjudicating officer and first appellate authority, as well.
21. There is no pending interim application in the appeal.
22. Order is pronounced in open court on this day of 30th day of October, 2026.
23. Copy of order be communicated to all concerned, as per rules.

(Ajeet Singh)

(Vivek Kumar)

Dated: 30.10.2026