GSTAT

State Bench Agra

Court No. Court I

APL/77/AGR/2026

AMIT KUMAR SINGH **.....Appellant**

Versus

GOVINDAM FLAVOURS, PROPRIETOR, 7 W BLOCK KESHAV NAGAR MIG JUHI COLONY KANPUR KESHAV NAGAR NEAR KIDWAI NAGAR UPKNN 208014 **.....Respondent**

Quorum

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

Counsel for Appellant
SH. MUKESH KUMAR, AUTHORISED REPRESENTATIVE

Counsel for Respondent
SH. AMITABH 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. : ZA090401026000216H **Date of order :** 30/10/2026

1.	GSTIN/Temporary ID/UIN - 09AJTPM2551Q1ZA	
2.	Appeal Case Reference no. - APL/77/AGR/2026	Date - 17/04/2026
3.	Name of the appellant - Amit Kumar Singh , amit.181976@gov.in , 7235003360	
4.	Name of the respondant - 1. GOVINDAM FLAVOURS , amitabh.singh95@gmail.com , 9839055869	
5.	Order appealed against - AD091024172135B	
	(5.1) Order Type - Enforcement Order	
	(5.2) Ref Number - ZD0911241358757	Date - 13/11/2024
6.	Personal Hearing - 30/10/2026 08/10/2026 25/08/2026 18/08/2026 05/08/2026	

7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief - the departmental appeal does not contain any material fact that would suggest any infirmity in the impugned order. Therefore, the order passed by the first appellate authority is affirmed, and the departmental appeal is dismissed.
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	0	AGRA BENCH

Place :AGRA

Date : 30.10.2026

Signature

AGRA Sandeep Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Agra

ORDER

Per. Vivek Kumar (Technical Member)

Commissioner State Tax U.P (Through- Amit Kumar Singh, Assistant Commissioner)

Vs

Govindam Flavours, Keshav Nagar, Kanpur.

APL/77/AGR/2026

(Passed on 30th day of October, 2026)

1. Present appeal has been directed by Revenue/State of U.P, against order dated 13-11-2024 passed by Additional Commissioner Gr. II (Appeal-II), State Tax, Jhansi in Appeal no. -ADO91024172135B/ /25-10-2024/year 2024-25, M/S Govindam Flavours Kanpur Vs. State of U.P., whereby penalty of Rs. 5,12,676/- imposed by Adjudicating officer u/s 129(3) of CGST/UPGST, Act has been set aside. For shake of convenience here-in-after in the order, appellant and respondent will be addressed as department and taxpayer, respectively.

The facts of the case are briefly as follows:

2. The goods being transported from Kanpur to Mumbai by vehicle number MH04KU 3129 were inspected by the Mobile Squad Officer on 22-10-2024 at 6:05 a.m. at a place called Raksa Jhansi.
3. The driver presented Tirupati Road Lines' bilty number 145 dated 21-10-2024 related to the goods, E-tax invoice number GST/24-25 /071 dated 21-10-2024 issued by the appellant M/S Govindam Flavours Kidwai Nagar Kanpur GSTIN 09 AJTPM 2551Q 1ZA and the related e-way bill part A slip unique number 4514 9151 4523.
4. As Part B of the said e-way bill related to the goods was not updated, the Mobile Squad Officer considered it a violation of the CGST Act and the relevant rules and by order dated 21-10-2024 in FORM GST MOV-06 under section 129(1), detained the vehicle and goods and issued a notice dated 22-10-2024 under section 129(3).
5. The taxpayer submitted an explanation to the notice, which was rejected and a penalty of Rs. 5,12,676 was imposed by order dated 22-10-2024.
6. The appeal filed by the taxpayer against the said order was accepted by the First Appellate Authority by order dated 13-11-2024, setting aside the imposed penalty.
7. This appeal/application has been filed by the department before the Tribunal against the said order dated 13-11-2024 passed by the First Appellate Authority.

Submission by the appellant

8. Shri Mukesh Kumar Deputy Commissioner and departmental authorised representative, appeared on behalf of the Revenue and reiterating the grounds of appeal made following submission.
9. Stating that the impugned order passed by the lower authority is erroneous in law and on facts and is liable to be set aside, he argued that the respondent has contravened the provisions of Rule 138 of the CGST/SGST Rules by not furnishing the details of conveyance in Part-B of the E-way Bill, which is mandatory for movement of goods.
10. He further submitted that the movement of goods without valid completion of E-way Bill (i.e., without Part-B details) renders the E-way Bill invalid, and therefore the goods were being transported in contravention of the provisions of the Act and Rules.
11. He also submitted that the requirement of filling Part-B is not a mere procedural formality but a substantive requirement to track movement of goods and prevent tax evasion.
12. On the basis of above submission, he argued that the lower authority has erred in treating the lapse as a minor/technical mistake, ignoring the statutory mandate under the GST law and the order passed has resulted in undue relief to the respondent and is prejudicial to the interest of revenue.
13. Submitting these arguments, he prayed that the impugned order be set aside and the order passed by the proper officer be restored in the interest of justice and revenue.

Submission by the respondent/taxpayer

14. Shri Amitabh Singh, learned counsel appearing for the taxpayer, submitted that the first appellate order was supported by facts and in accordance with the legal principles laid down by the Hon'ble Allahabad High Court in such cases.
15. Making a written submission he argued that the amount in dispute is only Rs. 5,12,676 which is much below the monetary limit prescribed by Commissioner State Tax vide his own circular No. 2425008 dated 05.07.2024 to file an appeal before the Tribunal. In view of the above circular this appeal filed by the department is not maintainable and is liable to rejection in limine.
16. He further stated that in the case in question, both the buyer and seller are bonafide dealers and that e-invoice was issued for the transaction, which contained the e-way bill number and the vehicle number was duly mentioned on the transport bilty.
17. The e-invoice was issued through the GST portal and auto-populated in the return GSTR-1. Therefore, there is no possibility of any tax evasion, as complete transaction information was available on the portal prior to the movement of goods. All payments were received through the State Bank of India.
18. He also submitted that in the case of Citykar Retail Pvt. Ltd. v. Commissioner Commercial Tax, Writ C No. 22285 of 2019, decided on 06.09.2022; [2022] 144 taxmann.com 155 (All): where the only allegation leading to seizure was that Part-B was not filled and there was no allegation that the goods were transported without payment of tax, Hon’ble Allahabad High Cort set aside the order imposing penalty. Learned first appellate authority has passed the impugned order on the basis of the ratio decided by Hon’ble Allahabad High Court in this case and several other cases.

19. Citing some other cases he further argued that without establishing mens rea and intention to evade tax, penalty under section 129(3) cannot be sustained.

Discussion and findings

20. We have heard the learned authorized representatives of respective parties, perused the materials on record and evaluated the relevant provisions of the law applicable to the facts of the case in hand.
21. As far as the question of admissibility of appeal on the basis of monetary limit mentioned in the circular dated 05-07-2024 is concerned, the exceptional circumstances in which this monetary limit will not be applicable are mentioned in Paragraph 4 of this circular itself. Clause 4 of the said circular is as follows

EXCLUSIONS

Monetary limits specified above for filing appeal or application by the department before GSTAT or High Court and for filing Special Leave Petition or appeal before the Supreme Court shall be applicable in all cases, except in the following circumstances where the decision to file appeal shall be taken on merits irrespective of the said monetary limits:

i. Where any provision of the CGST Act or UPGST Act or IGST Act or GST (Compensation to States) Act has been held to be ultra vires to the Constitution of India; or
ii. Where any Rules or regulations made under CGST Act or UPGST Act or IGST Act or GST (Compensation to States) Act have been held to be ultra vires the parent Act; or
iii. Where any order, notification, instruction, or circular issued by the Government or the Board has been held to be ultra vires of the CGST Act or UPGST Act or IGST Act or GST (Compensation to States) Act or the Rules made thereunder;or
iv. Where the matter is related to -
    a. Valuation of goods or services; or
    b. Classification of goods or services; or
    c. Refunds; or
    d. Place of Supply; or
    e. Any other issue,

which is recurring in nature and/or involves interpretation of the provision of the Act /the Rules/ notification/circular/order/instruction etc; or

v) Where structures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers; or

vi) Any other case or class of cases, where in the opinion of the Commissioner, it is necessary to contest in the interest of justice or revenue.

- So, the subclause vi of clause 4 of the said circular permits to file the appeal in the cases where in the opinion of the Commissioner, it is necessary to contest in the interest of justice or revenue. In cases where the appeal is filed on the basis of the opinion of the Commissioner, the opinion of the Commissioner cannot be challenged and the Commissioner is not required to state the grounds or reasons for his opinion.

Hence the objection raised by the respondent on the maintainability of the present appeal is not sustainable and rejected accordingly.

22.Now we come to the merit of the case. In the present case in hand the only objection raised by the mobile squad officer is that the part B of the E- Way Bill was not updated and this non updating he inferred that goods were being transported in contravention of provisions of act and rules.

23.Learned mobile squad officer has imposed a penalty solely for the violation of provisions. No finding of intention to evade tax is mentioned in his order.

24. It is also pertinent to mention that the department has nowhere in the grounds of appeal has taken stand that in this case there is any underlying intention to evade tax; rather the attempt is to justify the imposition of a penalty based on the violation of provisions.

25. The question for consideration now is whether penalty under Section 129(3) can be imposed merely on the basis of technical errors or whether intention to evade tax is sine qua non for invoking section 129.

26. Allahabad High Court has repeatedly held that mens rea / intention to evade tax is an essential requirement for imposing penalty under section 129of the CGST/UPGST Act, particularly where alleged violation is merely technical and the transaction is otherwise genuine.

i. In Writ Tax No. 1095 of 2025 decided on 19 March 2025 M/S Satyam Traders Vs. State of U.P. and others Hon. Allahabad High Court held:

“Since no mens rea to evade tax was there, we are of the view that the detention proceedings along with order under Section 129(3) of the Act are arbitrary and invalid in law”

ii)Similarly in WRIT TAX No. - 1400 of 2019 M/S. HINDUSTAN HERBAL COSMETICS VS STATE OF U.P. AND 2 OTHERS decided on 02-01-2024. The same view was affirmed.

Upon perusal of the judgments, the principle that emerges is that presence of mens rea for evasion of tax is a sine qua non for imposition of penalty. A error in the e-way bill without any further material to substantiate the intention to evade tax should not and cannot lead to imposition of penalty.

27. Taking together, the core operative principles emerging from these decisions can be summarized as:

- Mens rea is a necessary ingredient for section 129 proceedings
- Presence of genuine commercial documentation negates presumption of evasion
- There should be reasoned findings on intent; mere recitation of contravention is insufficient

The facts of the present case are required to be analysed in the light of the above principles.

28. In the present case, the transaction in question is between two bonafide registered traders and the e-Invoice was generated on the portal before the movement of goods, making all transaction information available on the portal and auto-populating the taxpayer's return GSTR-1, making it impossible to avoid paying the tax due on it. Therefore, no intention of tax evasion is established in the case in question.

29.Facts of the case in question are identical to the facts of the case M/s Citykart Retail Pvt. Ltd. v. Commissioner Commercial Tax, Writ C No. 22285 of 2019, decided on 06.09.2022, where the only allegation leading to the seizure was that Part-B was not filled and there was no allegation that the goods were transported without payment of tax, the orders were set aside. In this case Hon'ble Allahabad High Court observed

"In the present case, prima-facie no intent to evade the duty can be ascertained, only on the allegation that Part-B of the e-way bill was not filled"

The same view has been taken by the Hon'ble Court in many other cases also.

30. In light of the foregoing discussion, the presumption of "Intention to evade Tax" is rebutted by the genuine documents accompanying the goods in this case. Hence in our opinion, the decision of the first appellate authority to quash the penalty order is entirely justified and supported by the facts of the case.

31.In our opinion, the departmental appeal does not contain any material fact that would suggest any infirmity in the impugned order. Therefore, the order passed by the first appellate authority is affirmed, and the departmental appeal is dismissed.

32. No order as to cost.

33. No interim application is pending in present appeal.

34. Order Pronounced today on 30-10-2026 in open court.

35. Order be communicated to all concerned, as per rules.

(Ajeet Singh)

(Vivek Kumar)

Dated: 30.10.2026