Dated: 02.11.2026

GSTAT

State Bench Lucknow

Court No. Court I

APL/178/LCK/2026

VISHAL SINGH **.....Appellant**

Versus

POORVI ENTERPRISES, PROPRIETOR, A 27 GIRIRAJ COLONY NEAR RAILWAY STATION BHARATPUR BHARATPUR RJBHA 321001 **.....Respondent**

Quorum

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

Counsel for Appellant
MR. VIRENDRA MISHRA, DEPUTY COMMISSIONER, SGST

Counsel for Respondent
MR. MANISH TRIPATHI, 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. : ZA090371126000037H **Date of order :** 02/11/2026

1.	GSTIN/Temporary ID/UIN - 09ESMPK8713C1ZI	
2.	Appeal Case Reference no. - APL/178/LCK/2026	Date - 13/05/2026
3.	Name of the appellant - Vishal Singh , vishalschandel75@gmail.com , 9839556691	
4.	Name of the respondant - 1. POORVI ENTERPRISES , poorvienterpriseshardoi@gmail.com , 7790913029	
5.	Order appealed against - AD090925031880T	
	(5.1) Order Type - Enforcement Order	
	(5.2) Ref Number - ZD091025124609D	Date - 04/10/2025

6.	Personal Hearing - 02/11/2026 29/10/2026 06/10/2026 28/09/2026
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief - The present departmental appeal was filed by Shri Vishal Singh, Assistant Commissioner, State Tax Department, Lucknow, under Section 112 of the CGST/UPGST Acts, 2017, against the Order-in-Appeal dated 04.10.2025 passed in the case of M/s Poorvi Enterprises. The dispute arose from an inspection conducted on 16.05.2025, during which the Department alleged excess stock of 30,352.69 kg of Stainless-Steel Bright Bars and 9,046 kg of Stainless-Steel Wires, having an estimated value of Rs. 35,55,215/-. On this basis, confiscation proceedings under Section 130 were initiated, and a total demand of Rs.12,79,877.96 was confirmed by the adjudicating authority. The First Appellate Authority set aside the confiscation order, observing that the alleged stock discrepancy was determined through visual estimation and approximate calculations, without reliable physical weighment or independent evidence establishing an intention to evade tax. Aggrieved by this decision, the Revenue preferred the present appeal. The Tribunal, after examining the records, statutory provisions and judicial precedents, particularly the judgments in M/s Vijay Trading Company and M/s PP Polyplast Private Limited, held that mere detection of excess stock, without establishing the requisite statutory ingredients and intention to evade tax, cannot justify confiscation under Section 130 of the CGST/UPGST Acts, 2017. The Tribunal accordingly dismissed the departmental appeal on merits and upheld the Order-in-Appeal dated 04.10.2025.

Summary of Order

9.	If demand order then whether demand quantified: Yes

Section-I

Particulars	Central tax		State/UT tax		Integrated tax		Cess		Total	
	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount
1	2	3	4	5	6	7	8	9	10	11
(a) Tax	0	0	0	0	0	0	0	0	0	0
(b) Interest	0	0	0	0	0	0	0	0	0	0
(c) Penalty	319969	0	319969	0	0	0	0	0	639938	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 ANNEXURE ATTACHED	The appeal filed by the Revenue is hereby dismissed

Place :LUCKNOW

Signature

Date : 03.11.2026

LUCKNOW ANAMIKA DEVI

Designation : Stenographer/Law researcher

Jurisdiction :Lucknow

ORDER

The present appeal has been preferred by the Revenue (hereinafter referred as 'Appellant') under Section 112 of the Central Goods and Services Tax Act, 2017 and the Uttar Pradesh Goods and Services Tax Act, 2017(hereinafter referred as 'Act'), against Order-in-Appeal dated 04.10.2025, passed by the Additional Commissioner, Grade-II (Appeal), Sector-2, State Tax, Lucknow, whereby the appeal preferred by M/s Poorvi Enterprises(hereinafter referred as 'Respondent') was allowed and the confiscation order dated 26.07.2025 passed by the Deputy Commissioner, S.I.B., Range-A, State Tax, Lucknow, relating to alleged excess stock detected during inspection and the consequential proceedings under Section 130 of the CGST/UPGST Acts, 2017, was set aside. The Revenue, being aggrieved by the aforesaid appellate order, has approached this Tribunal seeking restoration of the original adjudication order

1.1. At the outset, we find that the Learned counsel for Respondent contends that the disputed amount of ₹12,79,877.96/- falls below the ₹20,00,000/- monetary threshold prescribed for departmental appeals under Circular No. 207/01/2024-GST. However, the department opposed that this objection is not acceptable as per the Paragraph 4 of the said Circular which mandate as under;

4. 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:

iv. Where the matter is related to -

a. Valuation of goods or services; or

b. Classification of goods or services; or

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c. Refunds; or

d. Place of Supply; or

e. Any other issue,

Which is recurring in nature and/or involves interpretation of the provisions of the Act /the Rules/ notification/circular/order/instruction etc; *or*

1.2. The aforesaid para explicitly carves out exceptions where the monetary limits shall not apply, stating that the decision to file an appeal shall be taken on merits, irrespective of the monetary limits, in cases involving an ***involves interpretation of the provisions of the Act.***

1.3. We find that the central dispute of this case rests upon a legal question concerning the invocation of Section 130 versus Section 73/74 of the Act when stock discrepancies are detected during inspections, it falls within the explicit exclusions of the litigation policy. Accordingly, the preliminary objection is overruled, and the appeal is held to be maintainable.

2. BRIEF FACTS OF THE CASE

2.1. M/s Poorvi Enterprises is a proprietorship concern engaged in the manufacture and trading of Stainless Steel (SS) Wire, Stainless Steel Bright Bars, kitchenware and other household articles. The firm is registered under the GST enactments bearing GSTIN 09ESMPK8713C1ZI and carries on its business from Unit No. L3, Phase 1, Sandila, District Hardoi, Uttar Pradesh, with additional registered business premises situated at Unit Nos. L4, L5, L6 and L7 within the same industrial area.

2.2. On 16.05.2025, officers of the Special Investigation Branch (S.I.B.), Range-A, State Tax Department, Lucknow, conducted an inspection and physical verification of the business premises of the respondent under Section 67 of the CGST/UPGST Acts, 2017. During the inspection, Physical Verification Sheets and Panchnamas were prepared recording the stock of raw materials, semi-finished goods and finished products found at the respective premises.

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2.3. On the basis of the physical verification, the Appellant alleged that 30,352.69 kilograms of Stainless-Steel Bright Bars and 9,046 kilograms of Stainless-Steel Wires were found in excess of the stock recorded in the books of accounts. The total estimated market value of the alleged excess stock was determined at ₹35,55,215/-.

2.4. The Appellant treated the alleged stock variation as evidence of non-accountal of goods and formed the opinion that the goods had been kept outside the regular books of accounts with the intention of evading payment of GST. Consequently, proceedings under Sections 130 and 122 of the CGST/UPGST Acts, 2017, were initiated against the respondent.

2.5. The respondent deposited an amount of ₹12,79,876/- through Form GST DRC-03 on 17.05.2025. The respondent subsequently contended that the amount was deposited under pressure during the inspection proceedings and did not constitute an admission of tax evasion or acceptance of the legality of the confiscation proceedings.

2.6. The Deputy Commissioner, S.I.B., Range-A, State Tax, Lucknow, thereafter passed the adjudication order dated 26.07.2025, confirming the following liabilities:

Particulars	Amount
Amount under CGST	₹3,19,969.49
Amount under UPGST	₹3,19,969.49
Confiscation fine under UPGST	₹6,39,938.98
Total	₹12,79,877.96

2.7. Being aggrieved by the order in original, the respondent preferred an appeal before the Additional Commissioner, Grade-II (Appeal), Sector-2, State Tax, Lucknow, contending that the proceedings had been initiated merely on the basis of estimated stock discrepancies without reliable evidence of clandestine removal, unaccounted outward supply, suppression of turnover or intention to evade payment of tax.

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2.8. The respondent further contended that the stock verification had not been conducted through a proper and reliable method of physical weighment and that the quantities had allegedly been determined through visual estimation and mathematical calculations based on approximate measurements. It was also pointed out that the Physical Verification Sheets relating to different business units contained discrepancies that had not been satisfactorily reconciled by the Department.

2.9. The First Appellate Authority, vide Order-in-Appeal No. ZD091025124609D dated 04.10.2025, allowed the respondent's appeal and set aside the adjudication order dated 26.07.2025. The authority held, in substance, that the alleged excess stock, without satisfactory evidence establishing the statutory conditions for confiscation, could not by itself sustain proceedings under Section 130 of the Act.

2.10. Aggrieved by the aforesaid Order-in-Appeal, the Appellant has preferred the present appeal before this Tribunal, contending that the First Appellate Authority failed to appreciate the material collected during inspection and wrongly interfered with the action taken by the adjudicating authority.

3. QUESTIONS OF LAW

- **Whether** the mere eye estimated detection of an alleged excess stock discrepancy during a physical inspection is sufficient to automatically invoke the penal provisions of Section 130 of the CGST/UPGST Acts, 2017.

4. GROUNDS OF APPEAL

4.1. The appellant has challenged the impugned Order-in-Appeal on the ground that the First Appellate Authority failed to appreciate the material facts and evidence collected by the investigating officers during the inspection conducted on 16.05.2025.

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4.2. It is contended that the physical verification revealed substantial quantities of goods which were not properly reflected in the books of accounts maintained by the respondent. According to the Revenue, such a significant variation indicated failure to maintain proper records of purchases, production and stock as required under the GST enactments.

4.3. The appellant relies upon Section 130(1)(ii) of the CGST/UPGST Acts and contends that the provision empowers the proper officer to initiate confiscation proceedings where a person does not account for goods on which tax is payable.

4.4. It is further contended that the First Appellate Authority wrongly restricted the scope of Section 130 by holding that the alleged stock discrepancy was required to be examined through the statutory mechanism for determination of tax liability.

4.5. The appellant maintains that the inspection was conducted by competent officers and that the Physical Verification Sheets and Panchnamas constituted relevant documentary evidence that ought to have been given due evidentiary consideration.

4.6. The appellant further submits that the respondent failed to provide a satisfactory explanation regarding the alleged excess stock and that the circumstances, considered cumulatively, justified the action taken by the adjudicating authority.

4.7. On the aforesaid grounds, the appellant-Revenue has prayed that the impugned Order-in-Appeal dated 04.10.2025 be set aside and the adjudication order dated 26.07.2025 be restored.

5. SUBMISSIONS OF THE APPELLANT

5.1. The Appellant reiterated the grounds taken in the memorandum of appeal and submitted that the impugned appellate order was contrary to the facts and circumstances of the case and the applicable provisions of the CGST/UPGST Acts, 2017.

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5.2. It was submitted that the inspection conducted on 16.05.2025 resulted in the detection of substantial excess stock of Stainless-Steel Bright Bars and Stainless-Steel Wires, which was not satisfactorily reconciled with the records maintained by the respondent.

5.3. The Appellant argued that every registered person is under a statutory obligation to maintain true and correct accounts of stock, purchases, production and supplies. Failure to maintain proper records may facilitate suppression of taxable transactions and defeat the object of the GST compliance mechanism.

5.4. It was further argued that Section 130(1)(ii) specifically provides for confiscation in cases falling within the statutory conditions relating to failure to account for goods on which tax is payable. According to the Department, the adjudicating authority acted within the scope of the statutory powers conferred upon it.

5.5. The Appellant contended that the Physical Verification Sheets and Panchnamas were contemporaneous records prepared during inspection and that their evidentiary value could not be discarded merely because the respondent subsequently disputed the method of verification.

5.6. It was further submitted that the respondent had failed to satisfactorily explain the alleged stock variation and that the First Appellate Authority had interfered with the findings of the adjudicating authority without sufficient justification.

5.7. The learned Departmental Representative accordingly prayed that the departmental appeal be allowed, the Order-in-Appeal dated 04.10.2025 be set aside and the original confiscation order dated 26.07.2025 be restored.

6. SUBMISSIONS OF THE RESPONDENT

6.1. The learned counsel appearing on behalf of the respondent opposed the departmental appeal and supported the findings recorded by the First Appellate Authority. It was submitted

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that the impugned Order-in-Appeal was a reasoned and legally sustainable order passed after consideration of the facts, records and applicable statutory provisions.

6.2. On merits, the learned counsel submitted that the entire case of the Appellant rested upon an alleged stock discrepancy calculated through visual estimation and approximate mathematical calculations rather than accurate physical weighment.

6.3. It was contended that the Appellant had failed to adopt a scientifically reliable and verifiable method for determining the quantities of Stainless-Steel Bright Bars and Stainless-Steel Wires allegedly available in excess at the premises.

6.4. The learned counsel drew attention to discrepancies in the Physical Verification Sheets prepared for the different business units. In particular, it was pointed out that the verification record of Unit L3 referred to a quantity of 9,537 kilograms attributed to Units L4 and L5, whereas the verification sheet relating to those units allegedly recorded only 4,700 kilograms. It was submitted that these inconsistencies materially affected the reliability of the departmental calculations.

6.5. It was further argued that the Appellant had not produced independent evidence showing that the alleged excess goods had been purchased without invoices, manufactured through unrecorded production, supplied clandestinely or otherwise dealt with in a manner intended to evade payment of tax.

6.6. The learned counsel submitted that Section 35(6) provides a statutory mechanism for determination of tax liability where a registered person fails to account for goods in accordance with the prescribed requirements. Therefore, even if a stock discrepancy were assumed to exist, the Department was required to follow the applicable statutory procedure rather than automatically invoke confiscation under Section 130.

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6.7. In support of the aforesaid submissions, reliance was placed upon the judgment of the Hon'ble Allahabad High Court in *M/s Vijay Trading Company v. Additional Commissioner, Grade-II & Another*, Writ Tax No. 1278 of 2024, decided on 20.08.2024, the Hon'ble Allahabad High Court categorically held that the mere detection of excess stock during a physical search or survey cannot empower the Department to launch harsh confiscation proceedings under Section 130 of the GST Act.

6.8. Reliance was also placed upon *M/s PP Polyplast Private Limited v. Additional Commissioner, Grade-II & Another*, Writ Tax No. 1183 of 2024, decided on 30.07.2024. The Court held that penalty and confiscation proceedings under Section 130 read with Section 122 are legally unmaintainable when initiated purely on the grounds of excess stock found during an inspection. The proper recourse for the Department is strictly limited to tax quantification via regular assessment routes under Section 73 or Section 74 of the Act.

6.9. The learned counsel further submitted that the amount of ₹12,79,876/- deposited through Form GST DRC-03 on 17.05.2025 was deposited under pressure during the inspection proceedings and could not be treated as an admission of tax evasion or as a substitute for proof of the statutory ingredients necessary for confiscation.

6.10. The learned counsel accordingly prayed that the departmental appeal be dismissed and the impugned Order-in-Appeal dated 04.10.2025 be upheld.

7. FINDINGS AND DISCUSSION

7.1. We have meticulously evaluated the submissions, scrutinized the records, and examined the statutory matrix alongside the landmark judicial precedents cited by both sides.

7.2. The Revenue alleged that the respondent manipulated its account books post-survey to falsely reflect raw material and stock purchases from registered and unregistered persons. We find that the record shows that the inspecting officers compared the physical inventory on-site

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with the declared book records to compute the alleged variations. The comparison by the survey team explicitly presumes that accounts were available and maintained by the taxpayer. Not a single shred of independent, corroborative evidence such as unrecorded manufacturing operations, parallel invoice books, clandestine power usage, hidden transport logbooks, or parallel bank accounts has been placed on record by the Revenue to establish the alleged manipulation. A bare, unsubstantiated administrative assertion cannot take the place of legal proof required to sustain a structural allegation of forgery and ledger falsification.

7.3. The Revenue further submitted that while tax can be recovered under Section 7, the mandatory redemption fine and penal liability cannot be captured unless Section 130 is invoked, thereby justifying their bypass of regular assessment routes. We find this approach completely erroneous and destructive of the statutory scheme. The choice of taking a penal path under Section 130 cannot be dictated by the administrative desire to collect higher fines. The power to confiscate is conditional upon proving the specific statutory prerequisites under Section 130(1)(i) or (ii) namely, a deliberate contravention *with the explicit intent to evade payment of tax*. The existence of a mere quantitative discrepancy between stock sheets and records does not automatically establish an intent to evade tax. Examination of the portal data confirms that the respondent is a regular compliance filer who regularly uploads GSTR-1 and GSTR-3B returns. A localized, temporary record-keeping omission during an unexpected raid cannot be mechanically substituted for a fraudulent intent to evade tax.

7.4. We find that the Revenue's case suffers from fatal internal and mathematical contradictions that completely strip the physical verification sheets of any evidentiary value. The record reveals that the inspecting officers calculated the enormous volumes of heavy industrial steel products through subjective visual estimation and approximate mathematical bag counts rather than executing an actual, physical weighment. The respondent pointed out irreconcilable discrepancy within the Department's own Physical Verification Sheets.

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7.5. The issue requiring determination is whether the proper officer was justified in invoking the extreme penal provisions of Section 130 of the CGST/UPGST Acts, 2017, merely on the basis of an alleged excess stock detected during inspection. We find that it is essential to examine the statutory scheme governing stock discrepancies under the GST regime.

7.6. On the other hand, we find that Section 130 of the CGST/UPGST Acts deals with the confiscation of goods or conveyances and the levy of penalty under specific, stringent circumstances. It is a settled principle of law that the power of confiscation is an extraordinary power and must be exercised only when the explicit statutory ingredients prescribed under the relevant clause of Section 130 specifically demonstrating an intentional supply or removal of goods with the purpose of evading tax are independently established. An alleged discrepancy in stock records cannot automatically or mechanically be treated as conclusive proof of a clandestine supply or deliberate evasion of tax.

7.7. The first appellate authority held that the returns are being filed by the respondent through the prescribed procedure. As per the information available on the portal, the respondent has been filed the prescribed returns regularly. The respondent's conduct indicates that there was no intention to evade tax, as the dealer has been regularly filing returns. In this regard, we find that revenue has failed to prove that there was intention to evade tax. In such circumstances, imposing a penalty under Section 130, particularly where the matter relates to a procedural lapse concerning the goods, does not appear to be justified and this tax liability must be determined in accordance with the appropriate demand and assessment provisions (Sections 73 or 74) of the Act.

7.8. The issue concerning the invocation of Section 130 on the sole basis of excess stock detected during an inspection is **no longer *res integra***. This legal proposition has been conclusively settled by a series of judgments of the Hon'ble High Court of Judicature at Allahabad, which have subsequently been affirmed by the Hon'ble Supreme Court of India:

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- *M/s Vijay Trading Company v. Additional Commissioner, Grade-II & Another (Writ Tax No. 1278 of 2024, decided on 20.08.2024)*: The Hon'ble High Court examined the legality of confiscation proceedings arising from stock estimated during inspection and held that the mere detection of excess stock, by itself, cannot justify confiscation under Section 130. The Court emphasized that tax liabilities arising from the non-accountal of goods must be examined under the appropriate regular statutory mechanism. The Revenue's challenge to the aforesaid judgment was dismissed by the Hon'ble Supreme Court of India in *Additional Commissioner, Grade-II & Another v. M/s Vijay Trading Company (SLP (Civil) Diary No. 5881 of 2025, decided on 04.04.2025)*, leaving the law laid down by the Hon'ble Allahabad High Court undisturbed and binding.

- *M/s PP Polyplast Private Limited v. Additional Commissioner, Grade-II & Another (Writ Tax No. 1183 of 2024, decided on 30.07.2024)*: The Hon'ble High Court detailed the strict statutory distinction between mere stock-accounting discrepancies and the conditional prerequisites required for invoking Section 130, holding that confiscation proceedings cannot be sustained purely on stock variations detected during inspection. The Revenue's subsequent challenge against this decision was also flatly dismissed by the Hon'ble Supreme Court in *Additional Commissioner, Grade-II (Appeal) & Another v. M/s PP Polyplast Private Limited (SLP (Civil) Diary No. 5880 of 2025, decided on 15.04.2025)*.

7.9. In view of the above, we find that all findings of fact and law recorded by the First Appellate Authority are well-reasoned and grounded, therefore, the Order-in-Appeal is liable to be affirmed.

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ORDER

In view of the facts and circumstances of the case, the appeal filed by the Revenue is hereby dismissed on merits. Order-in-Appeal No. ZD091025124609D dated 04.10.2025, passed by the Additional Commissioner, Grade-II (Appeal), Sector-2, State Tax, Lucknow, is hereby upheld.

(Santosh Kumar Srivastava)

(Arvind Kumar)

Dated: 02.11.2026

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