**Dated: 19.11.2026**

**GSTAT**

**State Bench Agra**

**Court No. Court I**

**APL/79/AGR/2026**

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

**Versus**

TEMPSENS INSTRUMENTS INDIA LIMITED, PUBLIC LIMITED COMPANY, B-188B-189 B-169 (PART)B-188A & F-188(E) ROAD NO 5 INDUSTRIAL AREA MADRI UDAIPUR UDAIPUR RAJASTHAN 313003 **.....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. UTKARSH SINGHAL, 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. :** ZA090401126000118H **Date of order :** 19/11/2026

| | | |
|---|---|---|
| **1.** | GSTIN/Temporary ID/UIN - 092400023432TMP | |
| **2.** | Appeal Case Reference no. - APL/79/AGR/2026 | Date - 17/04/2026 |
| **3.** | Name of the appellant - Amit Kumar Singh , amit.181976@gov.in , 7235003360 | |
| **4.** | Name of the respondant -<br>1. TEMPSENS INSTRUMENTS INDIA LIMITED | |
| **5.** | Order appealed against - AD090924060830V | |
| | **(5.1) Order Type -** Enforcement Order | |
| | **(5.2) Ref Number -** ZD091124393611D | Date - 25/11/2024 |
| **6.** | Personal Hearing - 19/11/2026 28/10/2026 08/10/2026 25/08/2026 18/08/2026 05/08/2026 | |

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|---|---|
| **7.** | Status of Order under Appeal - Confirmed – Order under Appeal is confirmed |
| **8.** | Order in brief - As per detailed order. |
| **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

Signature

Date : 20.11.2026

AGRA Sandeep Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Agra

**ORDER**

Per. Vivek Kumar (Technical Member)

Commissioner State tax U.P (Through- Amit Kumar Singh)

Vs

Tempsens Instruments India Limited, Udaipur, Rajasthan

APL/79/AGR/2026

(Passed on 19th day of November, 2026)

1. Present appeal has been preferred by the Revenue/State of U.P u/s 112 of CGST/UPGST, Act, 2017, against order dated 23-11-2024 passed by the Additional Commissioner Gr. II (Appeal-II), State Tax, Jhansi in Appeal no.- ADO90924060830V M/s Tempsens Instruments India Limited GSTIN: 092400023432TMP Vs. Assistant Commissioner, Mobile Squad, Vth Unit, Jhansi, whereby penalty of Rs. 15,53,764/- imposed by Adjudicating officer u/s 129(3) of CGST/UPGST, Act has been set aside. For the sake of convenience, the appellant shall hereinafter be referred to as the "Department" and the respondent as the "Taxpayer".
2. The facts of the case briefly stated as follows:

   The goods being transported from Udaipur, Rajasthan to Murshidabad West Bengal by vehicle number RJ27 GE3686 which was intercepted in transit by Mobile Squad Officer of State tax department on 06.07.2024, at a place called Raksha Jhansi (U.P).

3. At the time of inspection, the person in charge of the vehicle produced before the proper officer the documents relating to the goods loaded in the vehicle. Out of the four Tax Invoices and corresponding four E- Way Bills, the inspecting authority found that Unique number has been obtained by filling Part-A of E-Way Bill No. 771439435924 submitted in respect of E Tax Invoice No. 2116132973 dated 29-06-2024 of M/s Tempsens Instruments India Limited GSTIN: 092400023432TMP, but Part B of this E-Way Bill has not been updated.
4. Considering the non-updating of Part B of the e-way bill submitted in respect of those goods being transported against this E- Way Bill, as a violation of the provisions of the CGST/UPGST, Act and the relevant Rules, the Proper Officer detained the goods and vehicle under Sub-section (1) Section 129, by an order in FORM GST MOV-06.
5. A notice was issued under sub-section (3) of Section 129 of the CGST Act, dated 09-07-2024. The appellant submitted an updated e-way bill with a written explanation, but the Proper Officer rejected the explanation and passed an order under sub-section (3) of Section 129, dated 09-07-2024. Upon payment of the applicable penalty by the appellant, the goods and vehicle were released by the Proper

Officer.

6. Aggrieved by the order passed by the proper officer, the taxpayer filed an appeal before Additional Commissioner Appeals, which was allowed and by setting aside order in original penalty imposed was quashed.
7. Being aggrieved by the order of first appellate authority, this appeal/application has been filed by the department before the Tribunal against the said order dated 23-11-2024 passed by the First Appellate Authority.
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 appellate 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 Appellate 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.
14. Shri Utkarsh Singhal, 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. Submitting a written submission he argued that the amount in dispute is only Rs. 15,53,764/ 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 deserves to be dismissed as not maintainable.
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. Goods were being transported against a prior purchase order.
18. He Further stated that the Department's own record shows that supply was fully covered by valid tax invoice with I.R.N generated on the e-invoice portal, IGST was charged and paid, e-way bill (Part-A) existed for the consignment, the goods and conveyance matched the documents on physical verification, and the vehicle number in Part-B was the same vehicle that was actually intercepted. The Notice and Order contain no allegation of under valuation, mis-description, tax non-payment, diversion of goods or reuse of e-way bill. As recorded by the First Appellate Authority, the only ground

throughout was non-updating of Part-B.

19. He also submitted that in the case of Citykart Retail Pvt. Ltd. vs 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 Hon'ble Allahabad High Court in this case and in several other cases.
20. Citing some other cases Learned counsel for taxpayer further argued that without establishing mens rea or intention to evade tax, penalty under section 129(3) cannot be sustained.
21. 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.
22. 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

    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:

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.

23. 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.

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

25.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 penalty based on the violation of provisions.

26. 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.

27.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”

28. Similarly in WRIT TAX No. - 1400 of 2019 M/S. HINDUSTAN HERBAL COSMETICS VS STATE OF U.P. AND 2 OTHERS decided on 2-1-2024 Court held:

“That the presence of mens rea for evasion of tax is a sine qua non for imposition of penalty. An 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”.

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

1. Mens rea is a necessary ingredient for section 129 proceedings
2. Presence of genuine commercial documentation negates presumption of evasion
3. 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.

30.. In the present case, the transaction in question is between two bonafide registered dealers and the e-Invoices were 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 under consideration.

31.In the 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.

32. Before concluding our discussion, it is necessary to mention another important fact of this case, it is not in dispute that origin state of the said transaction of goods was Rajasthan and destination state was West Bengal. Uttar Pradesh is a transit state simpliciter. No tax event is about to happen in transit state of U.P where movement was duly covered with papers required in law. Recently, in a landmark judgement dated May 14, 2026, rendered by Allahabad High Court in M/s Maruti Enterprises vs State of U.P, in WRIT TAX NO. 1423, 1573, 2001, 2445, AND 2451 OF 2026, It is held that under GST frame work a transit state has a limited power of inspection and verification of goods but cannot exercise penal jurisdiction u/s 129 of CGST/SGST, Act. When the supply originates outside the transit state and is destined outside it. No tax incidence either under CGST/SGST or IGST accrues to or is payable in U.P for an interstate consignment. It is further held that verification of goods in transit and imposition of tax/penalty are two distinct powers. Where goods are merely passing through a state with no tax implication arising therein, authorities of such state cannot invoke powers conferred on them by virtue of section 129. It is further held that if transit state officer notices a potential document deficiency or cross unit anomaly such officer may point out the same and intimate to jurisdictional GST authorities either to origin state or destination state. Hon’ble High court has also held in that judgement that seizing of goods and imposing penal demands by an officer of transit state violates the constitutional guarantee for trade and commerce enshrined in article 301 of constitution of India.

33.In the light of the above discussion, we are of the considered opinion, that 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 accordingly dismissed.

34.No order as to cost.

35. No interim application is pending in present appeal.

36.Order Pronounced today on 19-11-2026 in open court.

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

Ajeet Singh

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(Ajeet Singh)

Vivek Kumar

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