Dated: 24.11.2026

GSTAT

State Bench Bengaluru

Division Bench Court No. Court II

APL/53/BUR/2026

ANUPAM FUELS PRIVATE LIMITED **.....Appellant**

Versus

SULAKSHANA SN, JOINT COMMISSIONER OF COMMERCIAL TAXES, OFFICE OF JCCT (APPEALS) MANGALURU 2ND FLOOR VANIJYA THERIGE BHAVANA MAIDAN ROAD MANGALURU -575 001 & ORS. **.....Respondent**

Quorum

Hon'ble Sudha Koka, Member (Technical)
Hon'ble Srikanth Venkatraman, Member(Judicial)

Counsel for Appellant

SURESH KUMAR RATHI

Counsel for Respondent
BHAGYASHREE NAYAK, DC

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. : ZA360171126000078H **Date of order :** 24/11/2026

1.	GSTIN/Temporary ID/UIN - 36AANCA5223B2Z0	
2.	Appeal Case Reference no. - APL/53/BUR/2026	Date - 30/03/2026
3.	Name of the appellant - ANUPAM FUELS PRIVATE LIMITED , sanjay@anupamfuels.com , 9985413075	
4.	Name of the respondant - 1. JCCT (e-Audit) , jccte-audit@ctd.ka.gov.in , 9448811330 2. SULAKSHANA SN	
5.	Order appealed against -	
	(5.1) Order Type - Enforcement Order	

	(5.2) Ref Number - GST/AP/30/2022-23	Date - 20/07/2023
6.	Personal Hearing - 24/11/2026 23/11/2026 11/11/2026 02/11/2026 05/10/2026 09/09/2026 03/09/2026 07/07/2026 29/06/2026	
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled	
8.	Order in brief - We are inclined to accept the appellant's explanation that the discrepancy occurred due to a technical glitch. The appellant ought to have been more careful when generating the e-way bill on the common portal. Other than negligence, the appellant has not disclosed any intention to evade tax. The date and time of generation of the e-way bill in the Tally software and the online portal were the same. The place of dispatch varied, but the place of destination was the same in both e-way bills. The invocation of Section 129 is unjust and incorrect in the facts and circumstances of the case. The order-in-appeal is accordingly set-aside.	

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	0	0	0	0	52870	0	23336	0	76206	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

Section-II

Place of Supply/Name of State/UT	Demand	Tax	Interest	Penalty	Other	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Amount in dispute	0	0	52870	0	52870
	Amount Determined	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	76206	The appeal is allowed. The order-in-appeal is setaside.

Place :BENGALURU

Signature

Date : 24.11.2026

BENGALURU Srikanth Venkatraman

Designation : Member

Jurisdiction :Bengaluru

ORDER

Per: Srikanth Venkatraman, Member (Judicial)

(1) The appellant, Anupam Fuels Private Limited, has filed this appeal assailing the order of the Joint Commissioner of Commercial Taxes [Appeals] ("the Appellate Authority") passed in appeal number GST/AP/30/2022-23 dated 20.7.2023. The Appellate Authority confirmed the order dated 1.6.2022, passed under Section 129 of the Central Goods and Services Tax Act [the Act], by the Commercial Tax Officer [Enforcement]-3, Kamarajar West Zone, Mangaluru [the proper officer].

(2) The appellant is engaged in the business of trading in coal and allied products. The purchases are from the domestic market and also by way of imports. The imported coal is unloaded in the ports such as Mangalore/Gangavaram/Krishnapatnam/Chennai, etc. Since coal is a bulky product and transportation costs are a major factor, sales are directly affected from the buyer's destination/ports and the seller's destination on a bill-to-ship-to basis.

(3) In the present case, the appellant sold imported coal lying at Mangalore port to a buyer in Anantapur, Andhra Pradesh, and arranged for direct despatch of the coal from Mangalore port to the customer. The consignment was transported by a conveyance bearing no. KL11BT5097, accompanied by an e-invoice and e-way bill. The proper officer had detained the consignment on 1.6. 2022 at Golithottu at 2:30 PM, on the ground that the e-way bill accompanying the consignment disclosed transport of coal from Telangana to Andhra Pradesh, but there was no proof of movement from Mangalore. The officer therefore viewed that the coal weighing 29.170 metric tons was transported from Mangalore without any documents. The officer therefore invoked Section 129 of the Act and directed the appellant to pay a penalty of Rs. 76,206/- for release of their consignment. The appellant paid the amount to release the consignment.

(4) The Appellate Authority dismissed the appeal, relying on the proper officer's reasoning. The Appellate Authority also held that no proof of mens rea was required to initiate proceedings under Section 129 of the Act. The Appellate Authority relied on the decision of the Kerala High Court in **Podaran Foods India Private Limited v. the State of Kerala [2021 (50) GSTL 412], Ouseph K.M. Vs. State of Kerala [2020(1) TMI 421]** and the Madhya Pradesh High Court in **Gati Kinetsu Express Private Limited Vs. Commissioner of Commercial Taxes [2018 (15) ELT 310]**. Hence, the present appeal before the Tribunal.

(5) The learned authorised representative for the appellant, Mr. Suresh Kumar Rathi, reiterated the contentions raised in the grounds of appeal. The authorised representative submitted that the appellant had duly generated a valid e-invoice and e-way bill containing the consignment particulars before the movement of goods commenced. It was submitted that the discrepancy arose due to a technical issue in the software integration with Tally. The goods in transit were duly identifiable and traceable, involving a registered consignor and a registered consignee. The only allegation pertained to the E-way bill not reflecting dispatch from Mangalore Port Due to a technical glitch in the software auto-population. The technical glitch was a minor or technical discrepancy and cannot be equated with non-availability of documents, nor can it give rise to an inference of tax evasion. The appellant relied on the decision of the Allahabad High Court reported in **2025 (7) TMI 1069 (Saumya Vs. Union of India)**.

(6) The authorised representative also filed a petition dated 22.10.2026, seeking to file additional evidence before the Tribunal. The following additional documents were filed before the Tribunal:

(a) JSW Mangalore Coal Terminal Private Limited - Gate Pass No. TGP-220601D04015008 dated 1.6.2022, recording vehicle KL11BT5097 and quantity 29.170 MT;

(b) consignment note no. 139791 dated 1.6.2022 issued by Vaishnavi Transport Corporation;

(c) Invoice No. KA/TR/04846 dated 1.6.2022, issued by Balaji Malts Private Limited, Maddur, to the appellant for sale of 139.850 MT of coal;

(d) Hari Om Pipe Industries Private Limited – weighment slip dated 3.6.2022 recording 29.010 MT at Anantapur;

(7) The authorised representative submits that the additional documents were filed pursuant to the Tribunal's directions. The documents were available only with third parties, not with the appellants, and were obtained from third parties in response to the Tribunal's request. The documents are not relied upon in isolation but form a documentary chain evidencing the physical movement of the goods. It was submitted that the aforesaid documents are necessary for the Tribunal to adjudicate the appeal properly and effectively. It was further submitted that the revenue will not be prejudiced if the additional documents are taken on record. Reliance was placed on Rule 45 of the Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025, for admissibility of additional evidence.

(8) The learned authorised representative for the respondent, Ms Bhagyashree Nayak, DC, relied on the appellate authority's reasoning and prayed for dismissal of the appeal. The respondent also filed written submissions. It was submitted that the invoice and e-way bill produced at interception represented a regular Telangana-to-Andhra Pradesh movement and did not represent the actual movement of the coal from Mangalore Port to Anantapur. The discrepancy cannot be reduced to a mere error in one field of the e-way bill. The e-invoice and e-way bill produced at interception reflected a regular movement from Hyderabad, Telangana to Anantapur, Andhra Pradesh, whereas the driver disclosed that the actual movement of the coal commenced from Mangalore. No corresponding invoice/e-way bill or other substantiating documents for the Mangalore-to-Anantapur movement were produced at the time of interception. Compliance cannot be established merely by producing some invoice and e-way bill. The documents must correspond to the actual movement of the goods. The contention that the error was due to a technical glitch cannot be accepted, as the place of dispatch was mentioned as Hyderabad, Telangana, and the place of delivery as Anantapur, Andhra Pradesh- 515872, in the tendered invoice as well as the e-way bill. The E-way bill portal provides an option to edit and make corrections, if any, before generation of the e-way bill.

(9) The learned authorised representative for the respondent also opposed the petition for filing additional evidence on the ground that the appellant had not furnished any reason for not filing the documents before the authorities below. Reliance was placed on Rule 112(1) of the Central Goods and Services Tax Rules to oppose the petition for filing additional evidence.

Findings

(10) Heard the rival contentions and perused the connected records. The following issues arise for our consideration: -

(a) Whether the petition for additional evidence can be accepted and admitted for consideration by the Tribunal?

(b) Whether the invocation of Section 129 of the Central Goods and Services Tax Act, 2017 is just and proper in the circumstances of the case?

(a) Whether the petition for additional evidence can be accepted and admitted for consideration by the Tribunal?

(11) The appellant's authorised representative would submit that the additional evidence was filed pursuant to the Tribunal's directions. The appellant relied on Rule 45 of the GSTAT (Procedure) Rules, 2025, to maintain the petition for additional evidence, while the respondent relied on Rule 112 of the CGST Rules and opposed filing the petition. Rule 45(1) of the GSTAT (Procedure) Rules provides that the parties to the appeal shall not be entitled to produce any additional evidence before the Tribunal. The proviso to the sub-Rule empowers the Tribunal to admit additional evidence if the Tribunal is of the opinion, inter alia, that the documents are required to enable it to pass orders or for any sufficient cause. Rule 45(4) also empowers the Tribunal to call for any documents if it considers necessary to meet the ends of justice.

(12) Rule 112(1) of the CGST Rules specifically prohibits the appellant from filing evidence not produced before the adjudicating authority or the Appellate Authority, except in the following circumstances: -

(a) Where the adjudicating authority or, as the case may be, the Appellate Authority has refused to admit evidence which ought to have been admitted; or

(b) Where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the adjudicating authority or, as the case may be, the Appellate Authority; or

(c) Where the appellant was prevented by sufficient cause from producing before the adjudicating authority or the Appellate Authority any evidence which is relevant to any ground of appeal; or

(d) Where the adjudicating authority or the Appellate Authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

Rule 112(2) of the CGST Rules requires the Tribunal to record reasons in writing for admitting the additional evidence. Rule 112(4) states that the Tribunal's power to direct production of any document to enable it to dispose of the appeal is not affected by other sub-rules in Rule 112.

(13) The appellant has not given any reason for not filing the evidence before the adjudicating authority or the Appellate Authority, other than stating that it produced the evidence pursuant to the Tribunal's directions. The appellant does not contend that it was prevented from filing the additional evidence. The Tribunal had not directed the appellant to file additional evidence. Hence, the contention that the additional evidence was produced pursuant to the Tribunal's directions is rejected. At the first hearing of the appeal, the Tribunal pointed out the discrepancy between the appellant's arguments and the Appellate Authority's finding relating to the place of despatch. At the first hearing, the appellant's authorised representative undertook to file additional documents. The Tribunal had not directed the appellant to file additional documents.

(14) In the application dated 4.10.2026, it was submitted that the evidence is produced in view of the Appellate Authority's finding that "*the origin of the goods from Mangalore is not substantiated"*. We find that this finding is also available in Form MOV 09. The order-in-appeal was passed on 20.7.2023, whereas the order in Form GST MOV 09 is dated 1.6.2022. The consignment note issued by Vaishnavi Transport Corporation was in the name of the appellant. Again, Balaji Malts Private Limited had issued a tax invoice in the name of the appellant. Therefore, the submission that the records had to be obtained from third parties is incorrect. The appellant made no attempt to furnish the documents before the appellate authority. Therefore, the Tribunal cannot accept the additional evidence at this stage. Accordingly, the petition for additional evidence is rejected. The first question is answered against the appellant.

(b) Whether the invocation of Section 129 of the Central Goods and Services Tax Act, 2017 is just and proper in the circumstances of the case?

(15) Section 129 of the Act empowers a proper officer to detain the goods if the goods were transported or stored during transit in contravention of the provisions of the Act or the rules. The consignment was released as the appellant had paid a penalty under Section 129(1)(a) of the Act. The penalty was imposed alleging violation of Rule 138 of the CGST Rules. The proper officer's stand was that the place of despatch in the e-way bill was Telangana, whereas the goods were moving from Mangalore. The origin of the goods from Mangalore was not substantiated, as the e-way bill reflected the place of despatch as "Telangana", not "Mangalore", and the place of delivery as "Andhra Pradesh". The appellant would contend that the discrepancy arose due to a technical issue in the software integration with Tally, that it was a minor technical error, and that it cannot be equated with an inference of tax evasion.

(16) We have verified the e-way bill and the e-invoice. The e-invoice refers to e-way bill No. 171481180429 and reflects the collection of integrated tax and compensation cess. The e-way bill generated on the portal refers to e-invoice No. TS/22-23/1780 dated 1.6.2022 only. The details in the e-invoice and the e-way bill generated on the online portal match. The vehicle number mentioned in the e-way bill and the e-invoice match. We have noted the e-way bill generated in Tally software. The date and time of generation of the e-way bill in Tally software and in the online portal were the same, namely, 01/06/2022 at 10.28 AM. The e-way bill generated in Tally refers to the place of despatch as Mangalore Port, whereas the e-way bill generated on the online portal refers to the place of despatch as Hyderabad, Telangana. The place of destination is the same in both e-way bills.

(17) The decisions relied upon by the appellate authority are considered herewith. The Kerala High Court in **Podaran Foods India Limited Vs. The State of Kerala [2021 (50) GSTL 412]** was considering the invocation of Section 129 of the Act in cases of misdescription and misclassification of goods. The Court held that Section 129 is merely a machinery provision intended to check tax evasion and must be read along with the substantive provisions of the statute that provide for the levy and collection of tax. The Court only held that the detaining authority did not have the discretion to reduce the amounts payable for releasing the consignment under Section 129(1) of the Act. This proposition is not disputed.

(18) The Kerala High Court in **Ouseph K.M. Vs. State of Kerala [2020(1) TMI 421]** considered a situation where the goods were detained in Kerala because the vehicle was off the normal route, when they were consigned from Tamil Nadu to Maharashtra. The Court, in para 9 of the report, held that in proceedings under Section 129 of the Act, there was no requirement for establishing mens rea and hence, merely on detecting an irregularity in the documents accompanying the consignment, the authorities would be justified in detaining the consignment and passing the necessary order under Section 129 of the Act.

(19) However, the Supreme Court, in the decision reported in **2022 (57) GSTL 97 (Assistant Commissioner (ST) Vs. Satyam Shivam Papers Private Limited)**, upheld the requirement of mens rea before invoking Section 129 of the Act. The Court approved the Telangana High Court's reasoning that the proper officer had no material to conclude an intention to evade tax merely because the time mentioned in the e-way bill had lapsed.

(20) The issue before the Madhya Pradesh High Court in **Gati Kinetsu Express Private Limited Vs. Commissioner of Commercial Taxes [2018 (15) GSTL 310]** related to non-updating of Part B of the e-way bill. The Court held that the distance was more than 1200-1300 kilometres and it was mandatory for the taxpayer to provide all the details in the e-way bill before loading the goods on the vehicle. The Court upheld the penalty imposed under Section 129 of the Act. The Court did not consider the issue from the perspective of an intention to evade tax payment. The decision cannot be applied for three reasons. First, the Madhya High Court's decision predates the Supreme Court's decision in **2022 (57) GSTL 97 (Satyam Shivam Papers Private Limited)**. Second, the Karnataka High Court in **BVM Trans Solutions Private Limited v. Commercial Tax Officer [(2025) 37 Centax 391]** did not subscribe to the Madhya Pradesh High Court's view, as seen in para 12 of the report. Third, the Karnataka High Court held that failing to fill in Part B of the e-way bill does not warrant invoking Section 129 of the Act when there was no intention to evade tax. The Karnataka High Court upheld the need for mens rea to invoke Section 129 of the Act.

(21) The appellant had relied on the decision of the Allahabad High Court in 2025 (7) TMI 1069 (Saumya v. Union of India). In the said case, the consignment was detained on the ground that the goods were loaded from Nagpur instead of Chandrapur (Maharashtra), as disclosed in the accompanying documents. The Court found that no discrepancies were pointed out regarding the quantity, quality, etc. of the goods as mentioned in the e-way bill and tax invoice. The Court set-aside the penalty on the ground that a penalty cannot be imposed merely on the ground that the place of loading was wrongly mentioned. This decision supports the appellant's case.

(22) The Madurai Bench of the Madras High Court in **W.P. (MD) No. 23310/2025 dated 26.8.2025 (K.S. Traders Vs. the Deputy Commercial Tax Officer (Int), Madurai)** was considering a situation where the invoice reflected the place of despatch as "Shencottah" whereas the e-way bill reflected the place of despatch as "Tuticorin". The Department levied a penalty under Section 129 due to this discrepancy. The Court held that a minor discrepancy in the address in the tax invoice and the e-way bill does not justify a penalty under Section 129 of the Act. The order imposing the penalty was set-aside. The decision supports the appellants' case.

(23) In light of the above facts and settled legal position, we are inclined to accept the appellant's explanation that the discrepancy occurred due to a technical glitch. The appellant ought to have been more careful when generating the e-way bill on the common portal. Other than negligence, the appellant has not disclosed any intention to evade tax. The date and time of generation of the e-way bill in the Tally software and the online portal were the same. The place of dispatch varied, but the place of destination was the same in both e-way bills. The invocation of Section 129 is unjust and incorrect in the facts and circumstances of the case. The order-in-appeal is accordingly set-aside. The second question is answered in the appellant's favour.

ORDER

(i) The appeal is allowed. The order-in-appeal No. GST/AP/30/2022-23 dated 20.7.2023 is set-aside.

(ii) The respondent is directed to refund Rs. 76,206/- along with statutory interest within 8 weeks from the date of this order.

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