GSTAT

Court No. Court I

APL/8/LCK/2026

M/S LUCKNOW AUTOMOTIVES ....**Appellant**

Versus

ASSISTANT COMMISSIONER (MOBILE SQUAD), GONDA, RAJ KUMAR & ORS. ....**Respondent**

Counsel for Appellant
SHRI SURESH KUMAR SHARMA, ADVOCATE

Counsel for Respondent
MR. MAHENDRA PRATAP SINGH, ASSISTANT COMMISSIONER, SGST

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

ORDER

Summary of the order by the GST Appellate Tribunal

Date of Order: 19.08.2026

1.	GSTN/Temporary ID/UN -	09ABLPF0067C1Z0
2.	Appeal Case Reference No.	AD0905250107428/2025
3.	Name of the Appellant:	M/s Lucknow Automotives
4.	Name of the Respondent:	Shri Mahendra Pratap Singh, Assistant Cor
5.	Order Appealed Against:	AD0905250107428/2025, 06.06.2025
6.	Personal Hearing -	03.08.2026, 07.08.2026 & 14.08.2026

GST APPELLATE TRIBUNAL जीएसटी अपीलीय अधिकरण

7. Status of Order under Appeal Appeal is ALLOWED.

This appeal has been preferred under Section 112 of the Central Goods and Services Tax Act, 2017 read with the corresponding provisions of the Uttar Pradesh Goods and Services Tax Act, 2017 against the order dated 04.02.2025 passed under Section 129(3) of the CGST/UPGST Act, 2017 and the consequential order passed by the First Appellate Authority in Appeal No. AD0905250107428/2025.

By the impugned order, penalty of Rs.2,63,330/-, comprising CGST Rs.1,31,665/- and SGST Rs.1,31,665/-, was imposed upon the appellant. The said amount was admittedly deposited by the appellant. The appeal record reflects the aforesaid penalty and payment particulars.

Question of law involved.

Since the goods (Scrap) were being transported without E-way Bill, which is mandatory under Rule 138(1). Therefore, we find the matter should be heard in Division Bench.

BRIEF FACTS

The appellant, M/s Lucknow Automotives, is a registered proprietorship concern engaged in the business of purchase and sale of motorcycles and spare parts. On 20.01.2025 at about 7:25 A.M., vehicle No. UP32 DN 2873, carrying motorcycles covered by Challan/Invoice Nos. 405, 406, 407 and 408, was intercepted by the Mobile Squad, State Tax, Gonda. At the precise time of interception, the E-way Bill had not been generated. However, E-way Bill No. 471521531708 dated 20.01.2025 was generated at 7:34 A.M., approximately nine minutes after interception, and the same was produced before the inspecting authority.

The appellant has consistently stated that the goods were covered by genuine tax invoices and that the transaction was in between registered dealers. The appellant has further relied upon its purchase invoices, tax invoices, challans, ledgers and bank statements. Proceedings under Section 129 were initiated and penalty of ?2,63,330/- was imposed. The appellant preferred an appeal before the First Appellate Authority, which was dismissed and the penalty was confirmed. The appellant has therefore approached this Tribunal seeking setting aside of both the orders and refund of the amount deposited.

3. **GROUNDS OF APPEAL**

The appellant has challenged the impugned orders substantially on the following grounds-

Penalty has been imposed merely on account of a procedural lapse, there was no intention to evade tax, the E-way Bill was generated within nine minutes of interception, the lapse occurred due to bona fide human error, valid tax invoices and delivery documents were accompanied the goods. The goods were motorcycles identifiable by engine and chassis numbers. The transaction was duly recorded in the books of account, no discrepancy in quantity, value or classification was found, no loss of revenue, the supporting documentary evidence was not properly appreciated. The penalty was excessive and disproportionate. The proceedings were initiated without establishing any intention to evade tax.

The following precedents were referred by the appellant-

3.1 M/s Uttam Electric Store

In **M/s Uttam Electric Store v. State of U.P. & 2 Others**, Writ Tax No. 153 of 2021, decided on 26.07.2024, the Hon'ble Allahabad High Court recognized that where an E-Way Bill lapse is attributable to bona fide human error and there is no material indicating tax evasion, proceedings under Section 129 cannot be sustained mechanically.

3.2 M/s Osr Creation

In **M/s Osr Creation v. State of U.P. & 2 Others**, Writ Tax No. 1914 of 2024, decided on 27.01.2025, the Hon'ble Allahabad High Court emphasized that the effect of an E-Way Bill lapse must be examined in the factual circumstances of each case, particularly where the requisite document is subsequently produced and no discrepancy is found.

3.3 M/s Vishnu Singh

In **M/s Vishnu Singh v. State of U.P. & Others**, Writ Tax No. 599 of 2024, decided on 20.02.2025, the Hon'ble Allahabad High Court reiterated the relevance of bona fide human error where the surrounding circumstances do not establish tax evasion.

4. **SUBMISSIONS OF THE APPELLANT**

The Learned counsel for the appellant stated that the transaction in question is a genuine transaction in between registered dealers.

It is submitted that the motorcycles were supported by proper invoices and challans and that all relevant records were maintained in the ordinary course of business. It is further submitted that the E-way Bill was generated at 7:34 A.M., only about nine minutes after the vehicle was intercepted at 7:25 A.M., and the same was immediately made available to the seizing authorities.

Learned Counsel submits that the delay was neither deliberate nor motivated by any intention to evade tax and was attributable to a bona fide mistake. It is emphasized that there was Genuine invoice, No excess quantity, undervaluation, wrong classification, fake consignee, suppression of transaction, unaccounted goods and loss of revenue.

It is submitted that motorcycles are highly identifiable goods having engine and chassis numbers as well as are subject to R.T.O. registration, making the transaction completely traceable.

The Appellant relied upon some further more judgments which are as under:

***Himachal Pradesh High Court** held Section 129 penalty requires intent to evade tax; quashed penalty for technical e-way bill lapse and ordered release of bank guarantee with interest – Kunal Aluminum Company v. State of Himachal Pradesh, (2025) 16 GSTJ Online 373 (HP) : (2025) 55 GSTJ 587.*

***The Allahabad High Court** quashed Section 129(3) penalties, holding that intent to evade tax is essential and was absent in the case – Shyam Sel and Power Ltd. V. State of U.P., (2024) 13 GSTJ Online 147 (All): (2024) 51 GSTJ 409.*

***The Court** quashed penalties, emphasizing that technical violations without intent to evade tax cannot warrant punishment – Falguni Steels v. State of U.P., (2024) 13 GSTJ Online 150 (All): (2024) 51 GSTJ 422.*

On the basis of above facts and judgements the appellant prays that the penalty be set aside and the amount deposited to be refunded.

5. SUBMISSIONS OF THE RESPONDENT

Shri Mahendra Pratap Singh, learned Assistant Commissioner of authorized representative appeared for department appellant and argued vehemently. He contended the appellant's ground of appeal.

It is submitted that the appellant admittedly had no E-way Bill at the time of interception. The E-way Bill was generated only after the vehicle had been intercepted and, therefore, the statutory requirement had not been complied with at the relevant point of time. It is contended that subsequent generation of the E-way Bill cannot retrospectively validate the movement of goods.

He also relied on the judgement which is quoted in the first Appellate Authority order. The judgment is writ no. M/s M.B. Computers v. Uttar Pradesh.

The Authorised Representative therefore submitted that the appeal is liable to be dismissed.

6. DISCUSSION

We have carefully considered the submissions of the parties and perused the material on record.

It is undisputed that the E-Way Bill was generated approximately nine minutes after interception. Thus, there was a procedural lapse at the time of interception. The goods were motorcycles, fully identifiable through their invoice particulars and engine and chassis numbers as well as subject to R.T.O Registration. The transaction was supported by purchase and sale invoices, challans, ledger accounts and bank records. No discrepancy in quantity, value or classification has been found, and there is no material on record indicating suppression, undervaluation, fake documentation, unaccounted goods or any intention to evade tax.

7. FINDING

After considering the entire material, we record the following findings:

The E-way Bill was admittedly generated after interception. which constituted a procedural lapse on the part of the appellant. However, the lapse occurred in the background of a genuine and fully identifiable transaction. The E-way Bill was generated within approximately nine minutes and immediately produced before the authority. No independent material has been brought on record demonstrating suppression, clandestine movement, undervaluation, fake documentation or any other positive circumstance indicating tax evasion. The peculiar facts of this case, to be a bona fide procedural lapse rather than an act forming part of an attempt to evade tax. This is also noteworthy that the transaction material was Motorcycles which are highly identifiable goods having engine and chassis numbers as well as subject to R.T.O. registration.

The decision relied upon appellate particularly M/s OSR Creation supported out and out to the present facts of the case, as the E-way bill was generated on 21.11.2002 at 4:59 P.M., while the goods was intercepted at 6pm but due to lacks of intention to evade tax, penalty order has been quashed. Besides this, mentioned other decisions are also applicable in the appellant's matter due to lack of intention to evade tax.

As far as the respondent mentioned precedent writ petition no. 1559 of 2024 B M Computers. We gone through deeply this judgement. We find that the matter involved in this judgement is totally different from the appellant's matter because in this judgement the issue is involved unfiled part B of E-Way Bill and the goods was being transported for different destination. Whereas, the Appellant issue is only related to the E-Way bill submission after the interpretation of the goods.

ORDER

1. In view of the foregoing discussion, the appeal is ALLOWED.
2. The order dated 04.02.2025 passed by the Proper Officer under Section 129(3) of the CGST/UPGST Act, 2017, imposing penalty of CGST –Rs. 1,31,665/-, SGST – Rs. 1,31,665/- and amounting to – Rs. 2,63,330/- is hereby SET ASIDE. Consequently, the order passed by the First Appellate Authority in Appeal No. AD0905250107428/2025, whereby the penalty was confirmed, is also SET ASIDE.
3. The amount of Rs. 2,63.330/-, if deposited by the appellant pursuant to the impugned proceedings, shall be refunded to the appellant in accordance with law, subject to verification of the payment and statutory requirements.

19.08.26
(Santosh Kumar Srivastava)

(Arvind Kumar) 19/8/2026

Dated: 19.08.2026