GSTAT

Division Bench Court No. Court II

APL/142/BUR/2026

HERAMB ENTERPRISES **.............Appellant**

Versus

C PUSHPALATHA, ADDITIONAL COMMISSIONER OF COMMERCIAL TAXES, SMR-2 BENGALURU KARNATAKA & ORS. **.............Respondent**

Counsel for Appellant
JAGADISH SHANKAR KAMKAR
JAGADISH SHANKAR KAMKAR
JAGADISH SHANKAR KAMKAR
JAGADISH SHANKAR KAMKAR

Counsel for Respondent
PRIYA BASAPPA DC AR STATE
PRIYA BASAPPA DC AR STATE
PRIYA BASAPPA DC AR STATE

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

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. : ZA290170926000079H **Date of order :** 16/09/2026

1.	GSTIN/Temporary ID/UIN - 29BAGPB3987E2ZK	
2.	Appeal Case Reference no. - APL/142/BUR/2026	Date - 20/04/2026
3.	Name of the appellant - HERAMB ENTERPRISES , herambenterprisesbgm@gmail.com , 8105870349	
4.	Name of the respondant - 1. JCCT (e-Audit) , jccte-audit@ctd.ka.gov.in , 9448811330 2. C Pushpalatha	
5.	Order appealed against -	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ADCOM/ZONE-II/BGV/GST/SMR-07/2021-22	Date - 31/08/2024

6.	Personal Hearing - 16/09/2026 07/09/2026 14/07/2026 08/07/2026
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief - (i) The order of the Additional Commissioner of Commercial Taxes (SMR) – 2, Gandhi Nagar, Bengaluru, passed in T No. 212/24-25 – No. ADCOM/ZONE-II/BGV/GST/SMR-07/2021-22 dated 31/08/2024, is confirmed. (ii) The appeal is dismissed.
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	75928	0	75928	0		0		0	151856
(b) Interest	0		0		0		0		0	0
(c) Penalty	0	75927	0	75927	0		0		0	151854
(d) Fees	75927	00	75927	00	0		0		151854	0
(e) Others										0
(f) Refund										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
Short or non-payment of tax	The appellate/revisional authority upheld the order passed by The First Appellate Authority, order no: JCCT/AP/BGV/GST-34/2020-21/B-776 dated 25.03.2021 and restored the order passed by CTO (Enf)-6, NZ, Belagavi under Section 129(3) without adequately considering the appellantâ€™s submissions and supporting documents.	The appeal is dismissed

Place :BENGALURU

Date : 16.09.2026

Signature

BENGALURU Srikanth Venkatraman

Designation : Member

Jurisdiction :Bengaluru

ORDER

Per: Srikanth Venkatraman, Member (Judicial)

(1) The appellant, M/s. Heramb Enterprises, has filed this appeal against the order of the Additional Commissioner of Commercial Taxes (SMR) – 2, Gandhi Nagar, Bengaluru ('the Revisional Authority), passed in T No. 212/24-25 – No. ADCOM/ZONE-II/BGV/GST/SMR-07/2021-22 dated 31/08/2024. The Revisional Authority had reversed the order of the Joint Commissioner of Commercial Taxes (Appeals), Belagavi ('the Appellate Authority'), passed in Appeal No. JCCT/AP/BGV/GST-34 of 2020-21/B-776 dated 25/03/2021 and restored the order of the Commercial Tax Officer, (Enf) – 6, NZ, Belagavi ('the proper officer') passed in Form GST MOV-9 – No. CTO(Enf)-6/BGM/09/20-21 dated 07/10/2020.

(2) A conveyance bearing No. MH24 AB9709 was intercepted by the proper officer on 06/10/2020 at Udayambag, Belagavi at 1.16 PM. At the time of interception, goods (plywood) were being unloaded at REC Flow Technology LLP, Udayambag. A verification of documents revealed that tax invoice and e-way bill was available for transportation of goods from Intercon Wood Industries, Perumbavoor, Kerala to Heramb Enterprises (the appellant), Yarmal road, Vadgao, Belagavi but tax invoice and e-way bill were not available for unloading the goods at REC Flow Technology LLP. A show cause notice in Form GST MOV 07 dated 07/10/2020 was issued demanding tax and penalty under Section 129 (1) of the Karnataka State Goods and Services Tax Act, 2017 ('the KGST Act). Objections were not filed and hence the proposals were confirmed in Form GST MOV 09 vide order no. CTO(Enf)-6/BGM/09/20-21 dated 07/10/2020.

(3) The Appellate Authority allowed the appeal holding that the goods had reached the destination within the time mentioned in the e-way bill. Tax invoices and e-way bills were also issued immediately. Explanation for the delay in issuing the e-way bill was not considered. Intention to evade payment of taxes was absent as all the dealers involved in the transaction were registered under the KGST Act. Relying on Section 126, the Appellate Authority reduced the penalty to Rs. 500 each under the CGST Act and the KGST Act. Reliance was placed on the decision of the Gujarat high Court in the case of *Synergy Fertichem private limited Vs. State of Gujarat [2020 (33) GSTL 513]*.

(4) The Revisional Authority issued a notice dated 11/08/2021 under Section 108(1) of the KGST Act proposing to set-aside the order of the Appellate Authority on the ground that the order was illegal and improper and prejudicial to the interests of the revenue. After hearing the appellants, the Revisional Authority held that the appellant had not produced documents at the time of interception for movement of goods from M/s. Intercon Wood Industries, Perumbavoor, Kerala to REC Flow Technology LLP, Belagavi. Moving goods without the cover of an invoice and e-way bill constitutes an offence and attracts penalty. The e-way bill that was considered by the first Appellate Authority was generated at 01.33 PM on 06/10/2020 which was subsequent to the interception of goods by the proper officer. The generation of new e-way bill was only an afterthought, in order to suit the requirements at that junction of time to cover the contravention. The order of the appellate authority was reversed and the order of the proper officer was restored. Hence, the present appeal to the Tribunal.

(5) The learned authorised representative for the appellant would submit that invoking of Section 129 was unjustified as the supplier, transporter and the recipient were registered dealers under the Act; that the goods were accompanied by tax invoice and e-way bill and the transaction was genuine and recorded in the books of accounts. The e-way bill could not be raised due to technical glitches and was only a procedural lapse. Reliance was placed on the decision of the Telangana High Court in the case of *Assistant State Tax Officer Vs. Satyam Shivam Papers private and limited – 2021 (50) GSTL 459* and of the Kerala High Court in the case of *Podaran Foods India private limited Vs. state of Kerala - 2021 (50) GSTL 412.*

(6) The authorised representative also raised an additional plea of limitation. It was contended that the order of the revisional authority was barred by the period of limitation fixed by Section 108(2)(b) of the Act. The revisional authority can exercise the power of revision within 3 years from the date of passing of the order of the appellate authority (i.e) on or before 25/03/2024. The order was passed on 31/08/2024 and hence the order is barred by limitation.

(7) The learned authorised representative for the respondent would contend that tax invoice and e-way bill was available only for the transportation from Intercon Wood Industries, Perumbavoor, Kerala to the

appellant at Yarmal road, Vadgao, Belagavi but tax invoice and e-way bill were absent for unloading the plywood at REC Flow Technology LLP. The absence of documents clearly disclosed the intention to evade taxes due to the government. The subsequent production of the e-way bill does not indicate absence of intention to evade the payment of taxes.

(8) With regard to the plea of limitation, the learned authorised representative placed reliance on the decision of the Supreme Court in the case of *Cognizance for Extension of Limitation – 2022 (379) ELT 276* and *(2026) 45 Centax 331 (G.R. Infra Projects limited Vs. State of Madhya Pradesh).* Per contra, the learned counsel for the appellant would submit that the exclusion period fixed by the Supreme Court would not apply to department proceedings and placed reliance on the decision of the Andhra Pradesh high Court in the case of *Sneha Constructions Vs. Joint Commissioner (ST), Nellore – Writ Petition No. 21914/2025 dated 17/09/2025.*

(9) Heard Mr. Jagadish Shankar Kamkar for the appellant and Ms. Priya Basappa DC AR for the respondent and perused the connected records. The following issues arise for our consideration.

(a) Whether the proceedings of the Revisional Authority reversing the order of the appellate authority is barred by the period of limitation fixed under Section 108(2)(b) of the Act?

(b) Whether the Revisional Authority was justified in reversing the order of the Appellate Authority and confirming the order passed by the proper officer under Section 129 of the Act?

(a) whether the proceedings of the revisional authority is barred by the period of limitation fixed under Section 108(2)(b) of the Act?

(10) Section 108 of the Act empowers the revisional authority to examine any decision or order passed under the CGST Act or the SGST Act or the UTGST Act and if the decision or order is found to be erroneous as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, then the revisional authority can stay the operation of the order or decision and after making such inquiry as may be necessary, pass such order, as he thinks fit and proper, including enhancing or modifying or annulling the said decision or order. Section 108(2) places certain restriction on the powers of the revisional authority. For the purpose of this appeal, according to Section 108(2)(b), the revisional authority cannot exercise his power after 3 years after passing of the order.

(11) The Supreme Court in the case of *Cognizance for Extension of Limitation – 2022 (379) ELT 276* had given the following directions:

"I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

3. *Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*

III. In cases where the limitation would have expired during the period between 15.03.2020 till28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

15.

It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."

The Supreme Court had directed that the period from 15/03/2020 till 28/02/2022 has to be excluded for the calculation of period of limitation. If the direction of the Supreme Court is applied in the present case, then the period from 26/03/2021 to 28/02/2022 has to be excluded (ie) approximately 11 months have to be excluded, in which case the revisional authority can pass an order under Section 108 on or before 26/02/2025.

(12) However, the learned authorised representative for the appellant would contend that the directions of the Supreme Court in the case of *Cognizance for extension of Limitation* will not apply to statutory authorities. Reliance is placed on the decision of the Andhra Pradesh high Court in the case of *Sneha Constructions Vs. Joint Commissioner (ST), Nellore – Writ Petition No. 21914/2025 dated 17/09/2025.* The High Court held as under:

"The question of the applicability of the judgements of the Hon'ble Supreme Court of India, in favour of the authorities, had been considered in the judgment of the Hon'ble Supreme Court of India, in the case of S.Kasi Vs. State through the Inspector of Police, Samaynallur Police Station, Madurai District, the judgement of the Hon'ble High Court of Calcutta in the case of Gobindo Das & Ors., Vs. Union of India and Ors and the judgement of the High Court of Delhi, in the case of Vikas WSP ltd., Vs. Directorate Enforcement and by this Court, in its judgement dated 21.04.2025 in W.P.No. 12529 of 2024 as well as the judgement of this Court dated 06.08.2025, in W.P.No. 19273 of 2025. In these judgements, had held that the benefit of extension of limitation is not available to statutory authorities and the benefit of such extension is available only to the citizens and litigants who are approaching adjudicating fora.

In that view of the matter, this writ petition is allowed setting aside the impugned order of revision dated 04.06.2025 is beyond limitation."

(13) The decision of the Supreme Court in the case of *Cognizance for Extension of Limitation,* was considered by the Supreme Court in the case of *(2026) 45 Centax 331 (G.R. Infra Projects limited Vs. State of Madhya Pradesh).* The Supreme Court held that the show cause notice issued for the year 2018-19 was barred by limitation. The Court held as under:

"7. The CGST Act came into force on 01.07.2017 and initially for reason of fresh introduction of the electronic systems, the last date for filing annual returns was extended for the years commencing from 2017-2018 onwards by notifications issued under Section 44(1). Insofar as the assessment year 2018-2019 is concerned, successive notifications, extended the time to furnish annual return and eventually it stood at 31.12.2020. Hence, the limitation for issuing a notice under Section 73 expires on 31.12.2023.

8. ***8.** In the meanwhile, COVID struck and this Court in Writ Petition (C) No.3/2020 registered as Cognizance For Extension of Limitation, In re 2022 (379) E.L.T. 276 (S.C.) extended the limitation as provided in the various statutes, in the wake of the pandemic and eventually by order dated 01.01.2022, the Suo Motu Writ Petition was disposed of with directions, inter alia providing for exclusion of limitation for the period between 15.03.2020 to 28.02.2022. While computing limitation, the period excluded by this Court coming within the three-year period for 2018-2019 is 1 year and 2 months, which has to be excluded and further time provided from 31.12.2023 in lieu of the excluded period. Hence, the extended period of limitation falls on 28.02.2025. The SCN issued in this case on 13.06.2025 for the assessment year 2018-2019 definitely hit by limitation under Section 73."*

The Supreme Court has extended the benefit of the exclusion period to departmental proceedings also. In view of the decision of the Supreme Court in the case of *G.R. Infra projects limited,* we hold that the proceedings of the Revisional Authority are not barred by limitation.

(b) Whether the revisional authority was justified in reversing the order of the Appellate Authority and confirming the order of the proper officer passed under Section 129 of the Act?

(14) Section 68(1) of the Act requires the person in charge of the conveyance to carry with him the e-way bill and other prescribed documents. Section 129(1) of the Act provides that if any person transports goods or stores any goods while they are in transit in contravention of the provisions of the Act or the rules, then such goods are liable for detention and can be released on the payment of the amounts specified in clause (a) or (b) in Section 129(1). Rule 138 (1) of the CGST rules specifically states that Part A of Form GST EWB 01 has to be generated before the commencement of movement.

(15) It is an admitted fact that when the consignment was intercepted on 6/10/2020, it was accompanied by e-way bill and tax invoices raised by Intercon Wood Industries, Perumbavoor, Kerala to Heramb Enterprises (the appellant), Yarmal road, Vadgao, Belagavi. The goods were unloaded at REC Flow Technology LLP, Belagavi but tax invoices and e-way bills were not available for unloading the same at REC Flow Technology LLP. The appellant was fully aware of the procedure to be followed but had not raised e-way and tax invoice for delivery of goods to REC Flow Technology LLP. The appellant had raised an e-way bill and tax invoice only after coming to know about the detention of goods. It is not possible to accept the contention of the appellant that the e-way bill could not be generated due to technical glitch. No evidence was furnished by the appellant to support this plea. It is clear the appellant had the intention to evade the payment of taxes due to the Government. This violation would not have come to light if the interception had not taken place.

(16) Reliance placed by the appellate authority on the decision of the Gujarat High Court in the *case of Synergy Fertichem private limited Vs. State of Gujarat [2020 (33) GSTL 513]* is misplaced. The Gujarat High Court had held in para 96 as under:

"As far as the determination of penalty is concerned, it is the Assessing Officer/State Tax Officer who is the competent and proper person for such determination/quantification. However, a holistic reading of the statutory provisions and the Circular noted above, indicates to me that the Department does not paint all violations/transgressions with the same brush and makes a distinction between serious and substantive violations and those that are minor/procedural in nature."

Again, in para 101, the Court held as under:

"We are of the view that at the time of detention and seizure of goods or conveyance, the first thing the authorities need to look into closely is the nature of the contravention of the provisions of the Act or the Rules. The second step in the process for the authorities to examine closely is whether such contravention of the provisions of the Act or the Rules was with an intent to evade the payment of tax. Section 135 of the Act provides for presumption of culpable mental state but such presumption is available to the department only in the cases of prosecution and not for the purpose of Section 130 of the Act. What we are trying to convey is that in a given case, the contravention may be quite trivial or may not be of such a magnitude which by itself would be sufficient to take the view that the contravention was with the necessary intent to evade payment of tax."

The principles stated by the Gujarat High Court cannot be disputed. As stated by the High Court, the question whether the violation of the Act or the rules was with an intent to evade the payment of taxes would depend on the facts and circumstances of each case.

(17) Reliance placed by the appellant on the decision of the Telangana high Court in the case of *Assistant State Tax Officer Vs. Satyam Shivam Papers private and limited – 2021 (50) GSTL 459* and of the Kerala High Court in the case of *Podaran Foods India private limited Vs. state of Kerala - 2021 (50) GSTL 412,* are misplaced and not relevant to the facts of the case. In the case of *Satyam Shivam Papers private limited,* the issue before the High Court related to invocation of Section 129 in relation to transport of goods covered by expired e-way bill. The Court held that intention to evade taxes cannot be assumed merely on account of lapsing of validity period of e-way bill. In the case of *Podaran Foods India private limited,* the High Court

had laid down the general principles to be kept in mind by the proper officer for invoking Section 129 of the Act.

(18) We are of the view that the absence of tax invoices and e-way bill at the time of interception has to be treated as wilful act to evade payment of taxes. When the mandate of law is that the goods being transported must be accompanied with relevant statutory documents and if the goods are being transported without the relevant statutory documents, the consequences would follow. The revisional authority was correct in holding that the generation of the new e-way bill was only an afterthought to cover-up the contravention of the provisions of the Act and the rules, with the intention to evade payment of taxes. The imposition of penalty under Section 129(1) is legal and valid.

Conclusion

(i) The order of the Additional Commissioner of Commercial Taxes (SMR) – 2, Gandhi Nagar, Bengaluru, passed in T No. 212/24-25 – No. ADCOM/ZONE-II/BGV/GST/SMR-07/2021-22 dated 31/08/2024, is confirmed.

(ii) The appeal is dismissed.

Sudha Koka
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(Srikanth Venkatraman)

Dated: 16.09.2026