

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 25<sup>TH</sup> DAY OF AUGUST, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE S.G.PANDIT**

**AND**

**THE HON'BLE DR. JUSTICE K.MANMADHA RAO**

**SALES TAX REVISION PETITION NO. 44 OF 2025**

**BETWEEN:**

1. THE STATE OF KARNATAKA  
REPRESENTED BY  
THE JOINT COMMISSIONER  
OF COMMERCIAL TAXES (APPEALS)-1  
TTMC, BMTC BUILDING  
2<sup>ND</sup> FLOOR, SHANTINAGAR  
BANGALORE – 560 027.
2. THE COMMERCIAL TAX OFFICER  
(VIGILANCE)-37, VTK-2, A BLOCK  
3<sup>RD</sup> FLOOR, KORAMANGALA  
BANGALORE – 560 047.

...PETITIONERS

(BY SMT. JYOTI M. MARADI, HCGP)

**AND:**

M/S SNAM ALLOYS PRIVATE LIMITED  
KARIAMANICKAM VILLAGE  
NETTAPAKAM COMMUNE  
PONDICHERRY – 605 106.

...RESPONDENT

(BY SRI SANDEEP HULIGOL, ADVOCATE)

THIS STRP IS FILED UNDER SEC.65(1) OF THE KARNATAKA VALUE ADDED TAX ACT, 2003, AGAINST THE JUDGMENT DATED 31.07.2024, PASSED IN STA.NO.337/2018 ON THE FILE OF KARNATAKA APPELLATE TRIBUNAL AT BANGALORE, ALLOWING THE APPEAL AND FILED AGAINST THE ORDER DATED 30.06.2018 PASSED BY THE JOINT

COMMISSIONER OF COMMERCIAL TAXES (APPEALS)-1 IN VAT AP.NO.137/16-17 PRODUCED AS ANNEXURE-K.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 13.08.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT  
and  
HON'BLE DR. JUSTICE K.MANMADHA RAO

**CAV JUDGMENT**

(PER: HON'BLE DR. JUSTICE K.MANMADHA RAO)

This revision petition is preferred by the State challenging the order dated 31.07.2024 passed by the Karnataka Appellate Tribunal in STA No. 337/2018, whereby the Tribunal allowed the appeal filed by the respondent-assessee and set aside the penalty levied under Section 53(12) of the Karnataka Value Added Tax Act, 2003 (hereinafter referred to as 'the Act').

2. The brief facts necessary for disposal of this petition are as follows:

The respondent, a dealer registered under the Pondicherry Value Added Tax Act, 2007 and the Central Sales Tax Act, 1956, imported tin ingots and cleared the

same at Kandla Port, Gujarat, under Bill of Entry No. 7167257 dated 20.10.2016. The goods were being transported by road in vehicle bearing No. GJ-10-Z-5018 to the respondent's place of business in Pondicherry. On 07.11.2016, the vehicle was found at the premises of M/s. Oswal Minerals Limited, Yeshwanthpur, Bengaluru, with partial unloading of the goods. The Commercial Tax Officer (Vigilance)-37 issued a show-cause notice and thereafter levied penalty of Rs.12,03,449/- under Section 53(12) of the Act by order dated 12.11.2016 on the ground that the goods were being unloaded at a place other than the destination mentioned in the accompanying documents. The first appellate authority confirmed the penalty by order dated 30.06.2018. The Tribunal, by the impugned order, set aside the penalty and directed refund of the amount collected.

3. The following questions of law have been raised by the petitioners for consideration:

*(i) Whether the Hon'ble Tribunal was right in holding that penalty under Section 53(12) of the*

*Karnataka Value Added Tax Act, 2003 can only be imposed if there is intent to evade tax?*

*(ii) Whether the Tribunal was right in concluding that levy of penalty under Section 53(12) of the Karnataka Value Added Tax Act, 2003 is not a mandatory provision?*

4. We have heard the learned Additional Government Advocate appearing for the petitioners and the learned counsel for the respondent. We have carefully perused the impugned order of the Tribunal and the material placed on record.

5. The Tribunal, after examining the documents accompanying the vehicle (including the Bill of Entry, Gujarat Form 405 Transit Pass, Gate pass and other records) and the explanation offered by the respondent, recorded a finding that the movement was a genuine inter-State transport of imported goods destined for Pondicherry for home consumption. The Tribunal further held that the temporary unloading at the premises of M/s. Oswal Minerals Limited was explained as a measure for transshipment due to practical difficulties, and that no

material was produced by the revenue to establish any intention to evade tax payable in Karnataka. Relying on the decisions of this Court, the Tribunal set aside the penalty.

6. The contention of the State is that non-compliance with Section 53(2) of the Act automatically attracts penalty under Section 53(12), that the provision is mandatory, and that mens rea is not a necessary ingredient for levy of penalty.

7. The questions raised in the present petition stand covered by the decisions of Division Benches of this Court. We see no reason to take a different view.

8. In ***State of Karnataka v. Aradhya Steel Wires Pvt. Ltd., 2012 SCC OnLine Kar 9432*** (STRP No. 52 of 2010, decided on 27.07.2012), a Division Bench of this Court held that levy of penalty under Section 53 can be done only when the concerned person does not give any sufficient cause. The court held as under:

*"5. A reading of the said provision discloses that levy of penalty can be done only when the concerned person does not give any sufficient cause for the levy of penalty, then only penalty could be levied. Therefore, it appears that the fact of each case is to be considered whether the explanation given is also acceptable or not. ... The sale bill coupled with the explanation given by the respondent does not disclose that there was any intention of evading the tax. The view taken by the Tribunal is sound and proper. Accordingly, the question of law is answered against the petitioner."*

The petition filed by the State was dismissed.

9. In ***State of Karnataka v. Merlecha Steel Pvt. Ltd. (STRP No. 100003/2017, decided on 07.03.2018)***, another Division Bench of this Court was concerned with levy of penalty under Section 53(12) in respect of inter-State transportation of goods. This Court, after referring to the decision in ***Time Tech India Pvt. Ltd., Bangalore v. State of Karnataka, (2012) 74 KLJ 419***, held that the provision of Section 53 does not apply to inter-State transportation of goods. The Court observed that when there was no factual dispute that the

transportation was inter-State, the Tribunal was justified in setting aside the penalty. The revision petition filed by the State was dismissed as being devoid of merits.

10. The facts of the present case are closely similar. The goods originated from Gujarat and were destined for Pondicherry. The movement was inter-State. The documents produced established the nature of the transaction. The Tribunal has recorded a concurrent finding, based on the material, that there was no intention to evade tax and that the temporary unloading was satisfactorily explained. In the light of the decisions in ***Aradhya Steel Wires (supra)*** and ***Merlecha Steel (supra)***, the Tribunal was fully justified in setting aside the penalty.

11. The questions of law raised by the petitioners are answered against the State and in favour of the respondent. The Tribunal has correctly applied the law laid down by this Court. No perversity or error of law is made out in the impugned order.

12. For the foregoing reasons, the revision petition is dismissed. The order dated 31.07.2024 passed by the Karnataka Appellate Tribunal in STA No.337/2018 is affirmed.

No order as to costs.

**Sd/-  
(S.G.PANDIT)  
JUDGE**

**Sd/-  
(DR.K.MANMADHA RAO)  
JUDGE**

BNV