To,

[State Tax Officer],

[State],

Dear Sir/Madam,

Ref: [Notice #]

Sub: [Detention of Goods on Account of Wrong Destination or Route]

1. It is humbly submitted that our business concern has conducted sales to M/s ABC Ltd Vide Invoice No. [xxxxx] bearing E-Way Bill No. [xxxxx] to the buyer having their registered address at [xxxxx]. The goods have been transported by M/s YVX in Truck No. [xxxxx].

2. It is submitted that our truck was intercepted by authorities of your office on [date]. We have received Notice in FORM GST MOV- 07 raising allegations of 'Wrong Route or Wrong Destination'.

3. It is submitted that there was no violation of CGST Act or Rules made thereunder by us, our vehicle was having proper valid Eway bill as well as invoice as required by law and also produced with your office, further detained of goods or truck on allegation of wrong route or wrong destination is not allowed in law, hence request you to release the goods.

4. We humbly submit that we have not committed violations of any of the provisions of the Central Goods and Services Tax Act, 2017 (CGST Act) or the Rules made thereunder.

5. Reliance is placed on the Hon'ble Telangana High Court order in case of ***Commercial Steel Company [Writ Petition No. 2161 of 2020]*** Dated March 4, 2020. The Telangana High Court quashed the order passed by the Revenue on allegations of Wrong destination and further levied cost on the proper officer observing no valid ground effectuating such detainment. The Relevant portions of the judgment are reproduced below for your benefit:

   5.According to petitioner, when the consignment was coming from Vidyanagar, Karnataka with all requisite documents through a vehicle bearing No.KA 35 C 0141, it was detained at Jeedimetla at 05:30 p.m. on 12.12.2019, and a notice under Section 129 (3) of the C.G.S.T. Act, 2017 (for short, 'the Act') was issued alleging 'wrong destination' and directing payment of 9% of the Central Tax and 9% of State Tax and penalty equal to tax estimating the purchase value of ₹ 11,14,579/- as against the actual tax invoice value of ₹ 4,16,447/-.

17. Admittedly, it was mentioned in the order of detention of the vehicle and the consignment carried thereon from Karnataka to Hyderabad issued under Section 129(1) of the CGST Act, 2017 that the reason for such detention is 'wrong destination'. Under the Act, this is not a ground to detain the vehicle carrying the goods or levy tax or penalty.

18. Though it is stated that tax and penalty were levied and collected because it was presumed that at Jeedimetla, there was possibility of a local sale, a mere possibility cannot clothe the 1st respondent to take the impugned action. There is no material placed on record by the 1st respondent to show that any attempt was made by the petitioner to deliver the goods at a different place and sell in the local market evading CGST and SGST, because it was found at Jeedimetla. It is not as if the detention was affected by the 1st respondent after noticing any such attempt to sell the goods in the local market by the petitioner.

19. When the vehicle is being driven from Karnataka by a local driver of Karnataka it is perfectly possible for the driver to lose his way on account of being unfamiliar with the roads in the city of Hyderabad and bypassing Balanagar and going to Jeedimetla. Or else he may have entered the City by a Ring Road from the direction of Jeedimetla to go towards Balangar, his destination.

20. So the fact that the vehicle was found at Jeedimetla does not automatically lead to any presumption that there was an intention on the part of the petitioner to sell the goods at the local market evading the CGST and SGST.

27. Therefore, in our considered opinion, the impugned action of the respondents in collecting the amount of ₹ 4,16,447/- from the petitioner towards tax and penalty under the CGST and SGST Act, 2017 under threat of detention of the vehicle carrying the said goods for an absurd reason ('wrong destination') when the vehicle in question carried all the proper documents evidencing that it was an inter-State sale transaction is clearly arbitrary, violative of Articles 14, 265 and 300-A of the Constitution of India.

28. The 1st respondent is directed to refund the same with interest at the rate of 6% per annum from 13.12.2019 till the date of payment within a period of three (03) weeks from the date of receipt of copy of the order.

29. The 3rd respondent shall also consider initiating disciplinary action against the 1st respondent for the above conduct of the 1st respondent.

30. Accordingly, the Writ Petition is allowed as above with costs of ₹ 25,000/- to be paid by 1st respondent.

6. Further reliance is placed on the Hon'ble Kerala High Court order in case of ***M/s Kannangayathu Metals vs Assistant State Tax Officer [WP(C).No.30185 of 2019]*** dated November 8, 2019, wherein the Hon'ble High Court quashed the Order by the

Revenue on account of wrong destination. The relevant extract of the order has been reproduced below for reference:

The petitioner has approached this Court aggrieved by Ext.P2 detention notice issued to him detaining the goods and the vehicle at a place called Vazhayila. It is the case of the petitioner that the reason shown in Ext.P2 notice for detention is that the e-Way Bill in respect of the consignment showed that it was to cover a transportation from Pazhoor-Peppathi to Vettoor road- Kaniyapuram whereas the vehicle was detained at Vazhayila which was not on that route. It is the explanation of the learned counsel for the petitioner that, since the driver of the vehicle had taken an alternate route through MC Road, the vehicle had to reach Vazhayila before turning to Kaniyapuram and it was therefore that the vehicle was intercepted at Vazhayila by the respondents. The learned counsel for the petitioner would submit that there is no mandate under section 129 of the GST Act for detaining goods that were covered by a valid e-Way Bill merely because the driver of the vehicle took an alternate route to reach the same destination.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find force in the contention of the learned counsel for the petitioner that there cannot be a mechanical detention of a consignment solely because the driver of the vehicle had opted for a different route, other than what is normally taken by other transporters of goods covered by similar e-Way bills. No doubt, if the vehicle is detained at a place that is located on an entirely different stretch of road and plying in a direction other than towards the destination shown in the e- Way bill, then a presumption could be drawn that there was an attempt at transportation contrary to the e-Way Bill. In the instant case, there is no such indication. I therefore allow this writ petition by directing the 1st respondent to forthwith release the goods and consignment to the petitioner on the petitioner producing a copy of this judgment before him.

7. Reliance is placed on the decision of the Hon’ble Gujarat High Court in the matter of **M/s Karnataka Traders Vs. State of Gujarat in R/Special Civil Application No. 19549/2021** dated January 6, 2022, Hon’ble court quashed order passed by revenue on reason of wrong route, the extract of order is reproduced below for easy reference:

6. The respondent No.3 noticed two discrepancies in the impugned notice Form GST MOV – 10, which reads as under:

“(i) Vehicle was intercepted while it was travelling to the different direction than the direction of destination or way to the destination. So it is clear that the goods was not moving to the place destined for. Hence it appears that the goods is being transported with intention to evade tax.

(ii) The value of goods being transported is shown ₹ 286/- which is to low compared to its Real Market Value i.e. 330/-."

14. In the result, the present writ application succeeds and is hereby allowed. The confiscation proceedings initiated by the respondents are hereby quashed and set aside. The vehicle as well as the goods shall be released at the earliest and handed over to the writ applicants.

15. We clarify that we have quashed the entire confiscation proceedings keeping in mind two things: first, mere change of route without anything more would not necessarily be sufficient to draw an inference that the intention was to evade tax. Sometime, change of route may assume importance provided there is cogent material with the department to indicate that an attempt was sought to be made to dispose of the goods indirectly at a particular place. If such is the case, then probably, the authority may be justified in initiating appropriate proceedings, but mere change of route of the vehicle by itself is not sufficient. In the same manner, mere undervaluation of the goods also by itself is not sufficient to detain the goods and vehicle far from being liable to confiscation.

8. Your goodself may kindly consider the decision of the Hon'ble Telangana High Court in case of ***M/s Sree Rama Steels vs The Deputy State Tax Officer And 3 Others [****Writ Petition No. 4873 of 2020]* dated November 6, 2020. The Telangana High Court quashed the order passed by revenue on allegation of wrong destination, the relevant extract of order is reproduced below for easy reference:

55. Therefore, we shall consider firstly the nature of the contravention of the provisions of the Act or the Rules allegedly made by the petitioner.

56. We may note that in the Show cause notice dt.27.1.2020 issued to the petitioner, the only reason assigned by the 1st respondent was that 'wrong destination is noticed'.

57. In the statement allegedly recorded on 27.1.2020 at 7.50 am from the driver of the vehicle transporting the goods (filed as Ex.P-3), it is recorded that he is transporting the goods from Chegunta in Medak to Katedan, Hyderabad.

58. 'Noticing the conveyance at a wrong destination' without anything more cannot be said to be a contravention of the CGST Act/Telangana GST Act,2017 and it is not an taxable event, for there could be several reasons for the same including the driver losing his way or stopping for repair or to answer a call of nature.

80. In this view of the matter, the Writ Petition is allowed and the action of 1st respondent in collecting the sum of ₹ 4,30,778/- from petitioner on 30.01.2020 is declared as arbitrary and violative of Articles 14 and 265 of the Constitution of India, and also the provisions of CGST Act, 2017 and TGST Act, 2017, and also the Circular CBEC / 20 / 16 / 03 / 2017 – GST dt.14.09.2018, issued by the Government of India; and consequently, the respondents are directed to refund the said amount with interest at the rate of 6 % per annum from 30.01.2020 till date of payment within 6 weeks. No order as to costs.

9. Further, reference is made to the order passed by the Allahabad High Court in the case of ***M/s Vishal Steel Supplier vs State Of U.P. And 3 Others [2024 TAXSCAN (HC) 2006*** wherein the the Court observed that no provision under GST law mandates the disclosure of the specific route for transportation, and that the disputed detention was made on the basis of mere speculation. Relevant extract of the judgment is reproduced below for your reference:

   9. It is not in dispute that the goods were coming from Distt. Muzaffarnagar and same was intercepted during transit. As per the document accompanying with the goods in question, no discrepancy was found. Further the goods in question were going up to Distt. Ghaziabad and same was intercepted at distt. Hapur under the pretext that it was not on its normal route as well as the driver of the truck was having mobile number of a dealer of Distt. Hapur, therefore, inference has been drawn that the goods in question will be unloaded at distt. Hapur without having any proper document.

   10. It is also admitted that no discrepancy has been pointed out at the time of detention or seizure of the goods with regard to quality or quantity of the goods and the respondent authorities have also not recorded any finding with regard to mens ria to avoid the payment of tax.

   11. It is also not the case of the respondents that under the GST Act, the dealer is required to disclose the specific route of its journey for movement of the goods. Learned ACSC also could not show that under the GST Act, the transporter of the goods has to adopt a particular route for transportation of the goods.

   13. Further the respondent authorities have not recorded any finding with regard to intention to avoid the payment of tax, in other words the mens ria is absent. Once there is no finding with regard to mens ria to avoid the payment of tax, the impugned order cannot be sustained in the eyes of law on this ground also.

   14. In such circumstance, the writ petition is allowed. The impugned orders dated 30.7.2020 and 10/11.12.2019 are hereby quashed.

10. It is kindly submitted that your good office may apprise yourselves with the contentions raised in the above referenced cases having precedential and the reasoning given by the jurisdictional high courts to grant relief to the aggrieved Petitioners.

11. We hereby undertake to duly submit all the details required by your office once a proper and final SCN is served upon us.

12. It is further prayed that an opportunity of personal hearing be provided to us before passing any adverse order, in the interests of justice, equity and good conscience.

[Authorized Representative]

[Designation]

[Contact Details]