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**IN THE COMMERCIAL TAX TRIBUNAL  
UTTARAKHAND, DEHRADUN**

**Present:** Malik Mazhar Sultan, H.J.S ..... President.  
Vipin Chandra, .....Member.

**Second Appeal No. 70/2024**

**Assessment year – 2017-2018,  
First Appeal No- 187/2024,  
Amount of disputed tax – 5,01,996/-**

**And**

**Second Appeal No. 71/2024**

**Assessment year – 2017-2018,  
First Appeal No- 188/2024,  
Amount of disputed tax –2,60,920/-**

**And**

**Second Appeal No. 15/2025**

**Assessment year – 2016-2017,  
First Appeal No- 352/2021,  
Amount of disputed tax – 35,09,018/-**

**And**

**Second Appeal No. 16/2025**

**Assessment year – 2016-2017,  
First Appeal No- 351/2021,  
Amount of disputed tax – 10,52,481/-**

**M/s. Liberty Shoes Ltd, Langha Road, Chharba, Dehradun. Appellant.**

**Versus**

**Commissioner- Commercial Tax, Uttarakhand, Dehradun. Respondent.**

**For Appellant:** Shri Deepak Rawat

Ld. Advocate.

**For Respondent:** Shri Bhuwan Chandra Pandey

State-Representative.

S/d- 24.09.2025

S/d- 24.09.2025

Second Appeal no- 70/2024, 71/2024,  
15/2025, 16/2025,

(Vipin Chandra)

(Malik Mazhar Sultan)

## **J U D G M E N T**

**Malik Mazhar Sultan,**

The facts of all the above mentioned appeals are the same and common question of law is involved in all these appeals. For the sake of brevity above mentioned appeals are being decided together by this judgment.

These second apples are filed against order dated 20.8.24 and 19.7.24 passed by the Ld. Joint Commissioner (appeal) in first appeal number 187/24 assessment year 2017-18 U/S 25(7) of UVAT Act, 188/24 assessment year 2017-18 U/S 9(2) of CST Act, 352/2021 assessment year 2016-17 U/S 25(7) of UVAT Act, and 351/2021 assessment year 2016-17 U/S 9(2) of CST Act respectively. By means of impugned Judgement upholding the assessment order Ld. First appellate authority rejected the first appeals of the appellant.

**2.** Facts necessary for the disposal of these appeals are that the appellant is a Public limited company engaged in the manufacturing and sale of footwear. For the respective assessment years a show cause notice was issued against the appellant that the plastic footwear manufactured by the appellant company is unclassified as per order No 1043 dated 30.5.16 passed by the Ld. Commissioner under section 57 of Vat Act and liable to tax as such. Contesting the demand of tax proposed to be levied appellant proceeded to file the reply against this show cause notice and attendant the personal hearing also. Relying on the order of Ld. Commissioner dated 30.5.16 passes under section 57 of Vat Act, assessing authority, while passing order under section 25(7) of UVAT and under section 9(2) of CST Act respectively concluded that product in question (Foot wear) manufactured by the appellant is not eligible to be classified under entry 145 of Schedule II (B) of UVAT Act, hence taxable as residuary item.

**3.** Against the assessment order passed under section 25(7) of UVAT Act and section 9 (2) CST Act respectively appellant preferred first appeals under section 51 of UVAT Act before the Joint Commissioner (appeal). In all the above-mentioned four matters the first appeals were also rejected. Placing reliance on the order of Ld. Commissioner dated 30.5.16 passed under section 57 of UVAT Act it was held by the first appellant authority that the impugned

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product is not classifiable under entry 145 of schedule II (B) of Vat Act and the same is taxable as unclassified item at the rate of 13.5 % of tax.

4. Being aggrieved with the orders of first appellat authority above mentioned appeals are filed by the appellat/dealer on the grounds that the impugned Judgments are against law. Challenging the assessment order and impugned order it is alleged by the appellat that under entry 145 of schedule II (B) moulded plastic foot wear includes single moulded, double moulded and many moulded plastic footwear. It is further alleged that the assessing authority and the first appellate authority has wrongly relied upon the order dated 30.5.16 passed by Ld. Commissioner under section 57 of UVAT Act. The appellat challenged the impugned order on the ground that Footwear Design and Development Institution issued a certificate to them wherein the impugned product is certified as moulded plastic footwear. It was further argued that the same article / impugned product was considered / assessed at the rate of 4% of tax as moulded plastic footwear in other States like Haryana, Karnataka, Andhra Pradesh, Rajasthan etc. wherein the question for consideration was the same. In memo of appeal a detail production process is also described. Ld. counsel for the appellat also filled the written submission embodying, *White Paper by Empowered Committee on VAT., Process flow chart with photographs of Moulded Plastic Footwear Production as regard impugned product in various States. Various rulling of Hon'ble High Court and different authorities.*

5. Heard the Ld. counsel for the appellat and Ld. State Representative and perused the record.

6. Challenging the impugned order and assessment order Ld. Counsel for the appellat reiterated the grounds mentioned in the memo of appeals. It is vehemently argued on behalf of the appellat that his product is moulded plastic footwear, no matter whether it is single moulded or double moulded. It is further argued that both the Ld. assessing authority and first appellate authority has wrongly relied upon the order of Ld. Commissioner passed under section 57 of Vat Act. In support of his argument Ld. Counsel for the appellat relied upon various case laws mentioned in his written submission. It is further argued that in several State of India the impugned product is considered as moulded plastic footwear and assessed as such at the rate of 4% of tax.

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7. On the other hand the only argument of the Ld. State Representative is that the product in question manufactured by the appellant company has already been adjudged as residuary item by the Ld. Commissioner passed on the application moved by the appellant himself under section 57 of UVAT Act. It is argued by the Ld. State Representative that by virtue of section 57 (5) a decision given by the Ld. Commissioner under section 57 is binding on the applicant. It is also brought to the notice of the tribunal that though an appeal under section 53 of the Act was filed by the appellant against the above mentioned Commissioner's order but without contesting the same this appeal was withdrawn. It is vehemently argued by Ld. State Representative that the order of Ld. Commissioner as regard the product in question passed on the application of the appellant still existed, in which the product in question was declared as residuary item, so in view of sub section 5 of section 57 of UVAT Act this decision passed u/s 57 of UVAT Act is binding upon the appellant having the effect of estoppel against the appellant. The appellant can not be allowed to reargue the issue in the present appeal.

8. The preliminary issue in this matter is that whether the decision of the commissioner of sales tax dated 30-5-16 passed under section of 57 of UVAT Act is binding on the appellant. In other words whether the appellant can reargue the same matter which has already been adjudicated by the commissioner under section 57 of UVAT Act on the application of appellant himself.

If this issue is decided in favour of appellant then the issue as regard applicability rate of tax on the impugned product will be adjudicated.

9. The fact that an application under of 57 of UVAT Act was moved by the appellant for determining the rate of tax on the impugned product, which was disposed of by the Ld. Commissioner on 30.5.16 holding the product in question as unclassified is uncontroverted. It is also admitted that by preferring an appeal under section of 53 of UVAT Act the above mentioned order of commissioner dated 30-5-16 was challenged by the appellant before the tribunal but before the tribunal has adjudicated upon it the same was withdrawn by the appellant.

10. It is thus clear that the above mentioned order dated 30-5-16 passed by the Ld. Commissioner under section 57 of UVAT Act is still in force. Section

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57 empowers the commissioner to determine certain questions on the application of any person or dealer. According to Sub- Section 3 of section 57 of UVAT “No decision of the Commissioner under this section shall affect the validity or operation of any order passed earlier by any Assessing Officer, Appellate Authority, Revising Authority or the Tribunal”. Sub- Section 5 of section 57 speaks about the binding nature of the decision given by the commissioner under this section which is reproduced as under Section 57(5)-

*“Except as provided in sub-section (3), a decision given by the Commissioner under this section shall, subject to the provisions of Section 53 and Section 55 be final and binding on the applicant, the Assessing Authority and the Appellate Authority.”*

11. It is obviously clear from section 57 (5) that the decision given by the commissioner shall be final and binding on applicant, assessing authority and the appellate authority. Sub- Section 57 (5) itself empowers the applicant to challenge the decision of the commissioner before the tribunal under section 53 of the Act. Section 53 (10) (C) provides that an appeal against a decision given under section 57 shall be heard and disposed of by a bench of three members. It is firmly deduced from the above provisions that until the decision of the commissioner is challenged and set a side by the bench of three members of the tribunal the same shall be binding on the applicant. In this matter though the order of commissioner dated 30-5-2016 was challenged in appeal by the applicant/ appellant but before the final disposal on merit the appeal was withdrawn. It is thus clear that the order of the commissioner dated 30-5-2016 passed under section 57 of UVAT Act. on the application of appellant as regard product in question that is, plastic footwear is still in force, in which the impugned product was declared unclassified liable to tax at the rate of 13.5 % of tax.

12. The decision passed under Section 57 of UVAT Act is equally binding on the assessing authority. In view of the order the commissioner dated 30-5-2016 passed under section 57 Ld. assessing authority held that the product in question is unclassified and imposed a tax accordingly. By virtue Section 57 (5) of the Act the decision given by the Commissioner under Section 57 is also binding upon the appellate authority. Confirming the order of assessing authority Ld. first appellant authority held that in the light of Commissioner’s

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decision dated 30-5-2016 the impugned product is not covered under entry 145 of Schedule II (B) of the Act. hence liable to tax as unclassified item.

**13.** In the memo of appeal the appellant described the kind of moulded plastic footwear as single moulded, double moulded etc, and the manufacturing process in detail which in our opinion is of no avail. During the course of arguments Ld. counsel for the appellant assailed the order of commissioner dated 30-5-2016 passed under section 57 of UVAT Act whereas the facts as discussed above remains that this order of Commissioner was challenged in this tribunal but the applicant/ appellant has withdrawn the same without contending it. As has been discussed above the order of commissioner is still existed and binding upon the applicant / assessing authority and appellate authority. This argument of Ld. Counsel for appellant has no force.

**14.** Ld. Counsel for the applicant further argued that the product in question has been certified by the Footwear Design and Development Institution as moulded plastic footwear and the same article of the applicant has been considered and assessed at the rate of 4 % of tax in other state of India. In the facts and circumstances of the matter no benefit of this arguments can be given to the appellant. We have gone through the written submission filed by the Ld. Counsel for the appellant. There is no material in this submission to show that how and in what circumstance Ld. assessing authority or Ld. first appellate can deviate form the order of commissioner passed u/s 57 of the Act. There is nothing in this written submission to convince the tribunal that the order of commissioner is not bending on applicant.

**15.** In view of the facts and circumstances of the matter as discussed above we are of the considered opinion that in view of the decision of Ld. commissioner dated 30-5-2016 passed under section 57 of UVAT Act on the application of the appellant as regard the product in question Ld. assessing authority and Ld. first appellate authority has rightly came to the conclusion that the product in question is not covered under entry 145 of schedule II (B) of the Act, hence liable to tax as unclassified. There is no illegality in the impugned orders passed by the first appeal authority. These appeals have no force. The impugned orders deserve to be confirmed and these second appeals are liable to be dismissed. Order accordingly.

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(Vipin Chandra)

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## Order

The above mentioned appeals bearing No. 70/2024, 71/2024, 15/2025, and 16/2025 presented by the dealer are dismissed and the impugned orders/Judgement date 20.08.2024 passed in the first appeals no. **187/2024**, **188/2024**, and the orders/Judgement dated 19.07.2024 passed in first appeal no **352/2021** and **351/2021** are hereby confirmed.

Let the copy of this Judgement be placed in the files of second appeals no. 70/2024, 71/2024, 15/2025, and 16/2025.

Let the file be consigned.

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( Vipin Chandra)  
Member,  
Commercial Tax Tribunal,  
Uttarakhand, Haldwani

**S/d- 24.09.2025**

(Malik Mazhar Sultan)  
President,  
Commercial Tax Tribunal,  
Uttarakhand, Dehradun

Dated : 24 September,2025 .



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