

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

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

Anjali Benjwal..... Member.

**Second Appeal No. 12 / 2025 {2015-2016.....}**

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

**Appellant.**

**Versus**

**M/s. Shubham Stone Crusher, Ibrahimpur, Jwalapur, Haridwar.**

**Respondent.**

For Appellant: Shri Bhuwan Chandra Pandey

State-Representative.

For Respondent: Shri Pradeep Jain

Ld. Advocate.

**Assessment year - 2015-16**

**First Appeal No- 290/2024**

**Amount of disputed tax - Rs. 5,40,711/-**

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

**Malik Mazhar Sultan .....President,**

This appeal is filed against order dated 10.12.24 passed by Ld. Joint Commissioner (Appeal) in first appeal no 290/2024, Assessment year 2015-16. By means of impugned order, setting aside the assessment order dated 24.06.2019 the first appeal was allowed

2. The facts necessary for the disposal of this appeal are that the respondent firm is registered and the business is to produce and sale the stone

Second.Appeal.No. 12 / 2025  
S/d- 20 / 12 / 2025  
(Anjali Benjwal)

S/d- 20 / 12 / 2025  
(Malik Mazhar Sultan)

grid. The firm was assessed for the relevant year of 2015-16. The assessee/respondent declared the purchase of 80,462.82/- cubic meter raw material (Boulder) at the rate of Rs 568.26 per cubic meter, the monetary value of the same as declared is Rs 4,57,24,193/-. The finished goods (stone grid) of 79,333/- cubic meter was declared to have been sold at the rate of Rs 874.27 per cubic meter, the monetary value of the same is Rs. 6,93,59,005/-. Only on the basis of a letter issued by Public Works Department Haridwar on dated 07.01.2016, by means of which the rate of R.B.M.(raw material) and stone grid (furnished goods) was prescribed. Ld. assessing authority held that the assessee has purchased the raw material at the rate higher than the rate prescribed by P.W.D. and sold the Stone grid (furnished goods) at the rate lower than the rate prescribed by P.W.D. By means of above mentioned letter dated 07.01.2016 issued by P.W.D. the rate of R.B.M. (raw material) and stone grid (furnished goods) are prescribed as Rs 525 per cubic meter and Rs 950/- per cubic meter respectively. Rejecting the declared turnover it was observed by the Ld. assessing authority that the finished product was sold at the rate below than the rate fixed by P.W.D. for the relevant year. Assuming the sale/turnover of Rs 7,53,66,350/- the tax was assessed accordingly.

3. The assessment order dated 24.06.2019 was challenged in first appeal. Relying upon the case law propounded by the Hon' ble High Court of Nanital in M/s Bang Ganga Stone Crasher Vs Commissioner Sales Tax and Judgement of

this Tribunal passed in respondent/assessee's own matter on dated 14.01.2021 in second appeal no 94/2016 (year 2014-15) the first appellate authority set aside the assessment order and held that there is nothing on record to justify the enhancement in the rate of finished goods except the rate prescribed by the P.W.D.

4. Aggrieved by the impugned order dated 10.12.2024 passed in first appeal this second appeal is filed by the department on the ground that rate of the stone grid has rightly fixed by P.W.D. in view of the demand of the product in market. The first appellate authority has not taken into account other expenses borne in the production of the stone grid. The assessee has not produced any documents/bill etc. in support of declared sale. According to section 66(1) of the Act it is the responsibility of the dealer to prove his declared sale.

Heard the Ld. State representative and Ld. Counsel for the respondent and perused the record.

5. Challenging the impugned order Ld. State representative reiterated the above mentioned grounds incorporated in the memo of appeal. Relying upon the rate prescribed by P.W.D. it is argued by Ld. State representative that Ld. Assessing authority has rightly come to the conclusion that the assessee has concealed the turnover by selling the stone grid on low price.

6. On the other hand Ld. Counsel for the respondent argued that each months sale and purchase documents are produced before District Magistrate and department. It is further argued that the sale price for the relevant year is higher than the previous year as is clear from the Judgement of this Tribunal passed in second appeal No. 94/2016 in assessee's own case. It is further argued that the rate are determined on the basis of demand in market and keeping in view the competition in market. It is further argued that no sale is made to P.W.D. Ld. Counsel for the respondent supported the order passed in first appeal.

7. The only question which arises for determination in this appeal is that whether in the facts and circumstance of the matter the sale price declared by the assessee/respondent is legally acceptable or not. In another words whether the assessee has rightly declared his turnover for the relevant financial year.

8. In this matter the following facts are undisputed-

1. There is no dispute as regard quantity of goods sold by the assessee.
2. No sale was made to Public works department.
3. The rate of R.B.M. (Raw Material) and Stone grid (furnished goods) are prescribed by P.W.D. are as fallows respectively-

(i) Rs. 525 per cubic meter and Rs. 950 per cubic meter.

4. The declared rate at which the raw material are purchased and furnished goods are sold are as fallows respectively-

a) Rs. 568.26 per cubic meter and Rs. 874.27 per cubic meter.

9. It is clear from the perusal of record that the product is not sold on loss. It is pertinent to mention here that the competition in market as regard every product can not be ignored. That is to say that market competition is one of the main factor for any trader to fix the rate of his product.

10. The contention of Ld. State Representative is that the assessee has not produced his account books for verification while the perusal of assessment order reveals that in response to the notice to assessee he produced his Profit and loss accounts, tax audit report, balance sheet, sale bills which were not rejected by the assessing authority. According to assessing authority the only basis for the raised turnover is the letter of P.W.D. dated 07.01.2016 by which the rate of stone grid for the relevant year was prescribed. The contention of the Ld. State Representative that transaction detail, bill book were not produced by assessee is not acceptable.

11. In assessee's own case sale price of Rs. 850/- per cubic meter for the previous year of 2014-15 has been upheld by this tribunal in second appeal no 94/2016 decided on dated 14.01.2021. It is thus clear that the sale price of the relevant year 2015-16 is higher than the previous year, which is sufficient to

believe the declared price as correct. The relevant portion of impugned order is as follows-

“अपीलकर्ता द्वारा संगत वर्ष में बिक्री किये गये उपखनिज की मात्रा पर कोई विवाद नहीं किया गया है, किन्तु उपखनिज का प्रति कुन्तल निर्धारित मूल्य रू० 950.00 प्रति घन मीटर अर्थात् रू० 52.78 प्रति घन मीटर पर विवाद किया गया है। इस संबंध में अपीलकर्ता द्वारा माननीय उच्च न्यायालय, नैनीताल द्वारा पारित निर्णय संख्या-20/2019 सर्वश्री बंग गंगा स्टोन क्रेशर बनाम आयुक्त वाणिज्य कर, उत्तराखण्ड द्वारा दिये गये निर्णय दिनांक-21.11.2021 एवं द्वितीय अपील संख्या-94/2016 (वर्ष 2014-15) धारा-25 (7) सर्वश्री शुभम स्टोन क्रेशर, इब्राहिमपुर ज्वालापुर, हरिद्वार बनाम आयुक्त कर, उत्तराखण्ड के मामले में माननीय न्यायालय वाणिज्य करे अधिकरण, उत्तराखण्ड खण्डपीठ, देहरादून द्वारा दिये गये निर्णय दि० 14.01.2021 संदर्भ देते हुए उनके वाद के तथ्य भी एकसमान होने के दृष्टिगत उनके द्वारा घोषित रेट को मान्यता देने का अनुरोध किया गया। फर्म अधिवक्ता का कहना है कि अपीलकर्ता के गत वर्ष में माननीय अधिकरण द्वारा स्टोन ग्रेट की विक्रय दर रू० 850.00 प्रति घन मीटर अर्थात् रू० 47.22 प्रति कुन्तल निर्धारित किया गया है, जबकि एक अन्य मामलें में माननीय उच्च न्यायालय, नैनीताल द्वारा पारित निर्णय संख्या-20/2019 सर्वश्री बंग गंगा स्टोन क्रेशर बनाम आयुक्त वाणिज्य कर, उत्तराखण्ड द्वारा दिये गये निर्णय दिनांक-21.11.2021 में स्टोन ग्रेट का मूल्य 810.00 प्रति घन मीटर अर्थात् रू० 45.00 प्रति कुन्तल निर्धारित किये जाने का संज्ञान लिया गया है। अतः उपरोक्त से स्पष्ट है कि अपीलकर्ता द्वारा संगत वर्ष में घोषित विक्रय मूल्य गत वर्ष में घोषित विक्रय में मूल्य वृद्धित करते हुए घोषित किया गया है जो कि न्यायोचित प्रतीत होता है।”

**12.** Further, in support of his contention Ld. State Representative can produce the assessment order of the dealer to whom the impugned product was sold by the respondent/assesses. If the sale to such dealer/purchaser had been rejected the same can be accepted as evidence sufficient to prove the concealment of the turnover in the present matter.

**13.** It is also pertinent to mention here that undisputedly no supply of impugned product was made to P.W.D. The product is generally sold to contractors who again sold to petty contractors and contractor again supply it to different department or to retailer on higher price keeping his margins of profit.

No doubt the price/rate of impugned product is prescribed by P.W.D. and the same can be adhered if the supply would have been made to P.W.D itself. In view of competition in market, need of money etc. such determination of price can not preclude the dealer to sell the product on lower price to any other customer.

14. On the basis of above discussion we are of the considered opinion that the appeal has no force. There is no illegality in the order/Judgement of the first appellat authority. The impugned order deserve to be upheld and the appeal is liable to be rejected.

Order accordingly.

### **ORDER**

The instant appeal no. 12/2025 is dismissed and the impugned order dated 10.12.24 passed in first appeal no. 290/2024 is upheld. Let the file be consigned.

S/d- 20/12/2025  
(Anjali Benjwal)  
Member,  
Commercial Tax Tribunal,  
Uttarakhand, Dehradun.

S/d- 20/12/2025  
(Malik Mazhar Sultan)  
President,  
Commercial Tax Tribunal,  
Uttarakhand, Dehradun.

Dated : 20 December, 2025.