IN THE COMMERCIAL TAX TRIBUNAL, UTTARAKHAND, HALDWANI

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

Rakesh Verma ..... Member

Second Appeal No. 02 of 2026 (2017–18) under Section 52

M/s Nippon Signage India Pvt. Ltd., Haldwani

Appellant/Dealer

Versus

Commissioner, Commercial Tax, Uttarakhand, Dehradun

Respondent/Department

For the Appellant: Shri Akshay Agrawal, Learned Advocate

For the Respondent: Smt. Hemlata Shukla, Deputy Commissioner (State Tax), State Representative

JUDGMENT

Rakesh Verma — Member

Introduction

This Second Appeal challenges the revisional order dated 18.02.2025 passed under Section 52 of the Uttarakhand Value Added Tax Act, 2005 ("UVAT Act"). By that order, the revisional authority revised the assessment for the first quarter of Assessment Year 2017–18 (01.04.2017 to 30.06.2017), which had earlier been completed under Section 25(7) read with Section 31 of the UVAT Act.

The dealer has filed this Second Appeal before the Tribunal.

Facts of the case

The appellant, M/s Nippon Signage India Pvt. Ltd., is a registered dealer under the UVAT Act. It carries out works contracts for Government Departments. The work includes supplying and fixing PVC speed breakers, road furniture, signage, delineators, cat's eyes, and other road-safety and beautification items. These are composite works contracts involving both goods and labour/services.

The dispute concerns Assessment Year 2017–18, limited to the first quarter (01.04.2017 to 30.06.2017). This quarter fell under the VAT regime, before GST started. For this period, the appellant filed VAT returns and produced its

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books and supporting records, including vouchers, ledgers, trial balance, and audited financial statements.

In this quarter, the appellant received payments of about Rs 2.78 crore, mainly from Government Departments. The receipts were supported by Form-8 certificates showing tax deducted at source.

The Assessing Authority completed the assessment by order dated 10.02.2022 under Section 25(7) read with Section 31 of the UVAT Act. The order records that the books were produced, examined, and audited, and were found correct. The authority did not create any additional tax demand for this period.

Later, the Department conducted an audit. Based on audit objections, the revisional authority started proceedings under Section 52 and issued a show-cause notice to revise the assessment.

The show-cause notice under Section 52 raised limited issues of alleged short levy of tax, mainly about deductions claimed for labour charges and purchases. It did not raise any issue about State-wise trading income or production of assessment orders from other States.

The appellant filed a detailed reply. It explained the nature of the works contracts, the basis for labour/service deductions, the mercantile method of accounting, and why the turnover and deductions accepted in the assessment were correct. However, by order dated 18.02.2025, the revisional authority revised the assessment. In the impugned order, the authority: (i) drew adverse conclusions on labour charges mainly by comparing quarterly and annual figures; (ii) rejected the books of account because of a turnover difference of Rs 40,754/-; (iii) applied Rule 14(3) of the UVAT Rules and the Notification dated 14.08.2013; and (iv) redetermined the tax liability for the first quarter of Assessment Year 2017–18. The order also makes some adverse observations beyond the issues in the show-cause notice.

The appellant has therefore filed this Second Appeal No. 02 of 2026. It challenges both the decision to invoke Section 52 and the correctness of the revisional order on merits.

Submissions of the Appellant

The appellant is a registered dealer under the Uttarakhand VAT Act, 2005. It mainly carries out works contracts for Government Departments. For FY 2017–18, its business fell under two tax regimes: VAT for 01.04.2017 to 30.06.2017, and GST thereafter. This appeal concerns only the VAT period.

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During the VAT period, the appellant executed Government contracts and received Rs 2,78,87,560/-, which is about 84.45% of its total turnover of Rs 3,30,69,906.10/- for FY 2017–18. The appellant maintained complete books on the mercantile basis, supported by invoices, ledgers, work orders, running bills, and Form-8 TDS certificates issued by the concerned Departments. These Form-8 certificates were part of the assessment record and supported the turnover declared in the VAT returns.

The assessment for this period was completed by order dated 10.02.2022 under Section 25(7) of the Uttarakhand VAT Act. During the assessment, the appellant produced its books, vouchers, invoices, and statutory records. The Assessing Authority examined them, found them correct, and accepted the labour charges and other deductions claimed by the appellant.

The assessment order categorically records: *"वाद की सुनवाई के समय जांच हेतु लेखे प्रस्तुत किए गए। जांच में लेखे सही पाए गए। खाते ऑडिटेड हैं। समस्त खर्चों को मान्यता प्रदान की जाती है।"*

So, at the assessment stage, the authority found no mismatch in turnover, no defects in the books, and no excessive claim of labour charges.

Even so, the learned Joint Commissioner (Executive) started revision proceedings under Section 52 only because of an audit objection. The objection alleged that tax was not charged on Rs 1,79,59,358/- after deducting labour charges and purchases from the declared turnover. While issuing the Section 52 notice, the Joint Commissioner reduced the allowable labour charges from Rs 1,05,39,110/- (as per the books and as allowed in assessment) to Rs 83,66,268/-, without any inquiry or verification and without putting that specific issue to the appellant. This reduction does not arise from any finding in the assessment order and is the Joint Commissioner's own assumption.

The appellant submits that Section 52 allows the Commissioner (or a Joint Commissioner) to examine the record of a subordinate authority only to check the legality or propriety of the order. The Constitution Bench in *Hindustan Petroleum Corporation Limited v. Dilbahar Singh*, MANU/SC/0738/2014, (2014) 9 SCC 78, held that revisional power does not allow the authority to reappreciate evidence or replace factual findings simply because another view is possible. Revision is limited to jurisdictional error, violation of law, perversity, or a clear illegality on the record.

The Supreme Court repeated these limits in *Mohd. Inam v. Sanjay Kumar Singhal and Others*, MANU/SC/0497/2020. It held that revision cannot be used

to reassess evidence or disturb findings of fact unless the findings are perverse, based on no evidence, or cause a gross miscarriage of justice. Here, the assessment order recorded no adverse finding on the books, labour charges, or turnover. The appellant therefore says Section 52 should not have been invoked. The appellant argues that the impugned order goes beyond revision. The Joint Commissioner recomputed turnover, curtailed labour charges, applied Rule 14 by estimation, relied on GSTR-9 and GSTR-9C filed under GST, and redetermined tax liability afresh. The appellant submits that this amounts to a fresh assessment, which Section 52 does not permit. In *Kanpur Edibles Pvt. Ltd. v. Commissioner, Trade Tax, Uttar Pradesh*, Civil Appeal Nos. 6276–6279 of 2008, reported in 2008 (10) TMI 352 (SC), the Supreme Court held that a revisional authority cannot make a fresh assessment in the name of examining legality or propriety.

The appellant also submits that the revisional order went beyond the show-cause notice. The notice was limited to alleged non-levy of tax on Rs 1,79,59,358/- after deductions for labour charges and purchases. The appellant replied with books of account and Form-8 certificates. However, in the final order, the Joint Commissioner raised new points such as proportionality of labour expenses, lack of State-wise trading details, inter-State transactions, and mismatch with GST returns, without issuing any further notice or giving an opportunity to respond. The appellant submits that this violates natural justice. It relies on the Punjab and Haryana High Court decision in *Abbott Healthcare Private Limited v. Excise and Taxation Commissioner, Punjab and Others*, which held that a vague notice or a demand beyond the notice cannot stand.

The appellant says the "disproportionate labour expenses" allegation is factually incorrect. More than 84% of the yearly turnover arose in the VAT quarter. It is therefore natural that most labour and project expenses also fell in that period. The appellant follows mercantile accounting, so it records expenses when they are incurred, not by dividing annual expenses evenly month by month. A simple three-month versus twelve-month ratio does not reflect how works contracts are executed, which depends on project stages, site conditions, approvals, and fund releases. The appellant says the Department has not pointed to any contract-wise defect, benchmark, or statutory norm to show excess labour charges.

The appellant submits that the books were rejected and deduction under Rule 14(2) was denied only because of a small difference of Rs 40,754/- between the VAT turnover and the figure in GSTR-9. According to the appellant, the VAT

return shows actual receipts of Rs 2,78,87,560/- after routine deductions by Government Departments, whereas the GST annual return took figures from the trial balance before such deductions. Such deductions are common in Government contracts and can be verified from the Form-8 certificates already on record. The appellant says it is arbitrary to reject audited books on this basis, especially without a specific show-cause on rejection of books.

The appellant further submits that the revisional authority could not rely on GSTR-9 and GSTR-9C. A revision under Section 52 must be based on the record of the VAT assessment. In *State of Kerala v. K.M. Charia Abdullah and Co.*, decided on 05.10.1964, the Supreme Court held that a revisional authority cannot go beyond the record or conduct a fresh inquiry on merits; otherwise, the difference between an appeal and a revision would disappear. The Court observed: *"The revisional authority... cannot travel beyond the order passed or proceedings recorded by the inferior authority and make fresh enquiry and pass orders on merits... otherwise the distinction between appeal and revision would be effaced."*

Without prejudice, the appellant submits that under Rule 14(1), Rule 14(2), and Rule 14(3) of the UVAT Rules, 2005, tax on works contracts is normally computed on the **net turnover** shown in the dealer's accounts after allowing deductions, including labour and service components. The notification / percentage method under Rule 14(3) can be used only when proper accounts are not maintained, or the required figures cannot be worked out from reliable records. Since the assessment record shows that audited books and vouchers were produced and accepted, the appellant says the conditions for using Rule 14(3) did not exist. The revisional authority's use of Rule 14(3) is therefore contrary to the Rules.

The appellant also submits that the revision is based only on audit objections and therefore shows "borrowed satisfaction". Section 52 requires the revisional authority to form its own independent satisfaction. The appellant relies on *Deputy Commissioner of Income Tax v. Songwon Speciality Chemicals India Pvt. Ltd.*, 2025 (12) TMI 1054 (SC), where the Supreme Court held that reopening based only on an audit objection, without independent application of mind, is not sustainable.

For these reasons, the appellant submits that the revision proceedings and the revisional order dated 18.02.2025 passed under Section 52 of the Uttarakhand VAT Act, 2005 are without jurisdiction and should be set aside.

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Accordingly, it is prayed that the appeal be allowed and the impugned revisional order be set aside.

Submissions of the Department

The Department supports the revisional order dated 18.02.2025. It submits that Section 52 allows the revisional authority to call for and examine the record to satisfy itself about the legality or propriety of an assessment order. According to the Department, the audit objection only brought possible errors to notice, after which the revisional authority examined the record and acted within its powers.

The Department says the original assessment led to short levy of tax, especially in relation to deductions claimed for labour charges and purchases in works contracts. It submits that Section 52 exists to correct such errors in the interest of revenue.

On the objection about pendency of proceedings under Section 29(4), the Department submits that no reassessment order had been passed. It says the revisional authority found, on the basis of available departmental information, that no such proceeding was pending that could bar revision. The Department adds that the dealer's mere assertion cannot take away revisional jurisdiction.

On merits, the Department submits that for A.Y. 2017–18 the revisional authority could use full-year disclosures, including GSTR-9/GSTR-9C, to cross-check turnover and receipts when it found discrepancies.

On labour charges, the Department supports the proportional comparison made in the revisional order. It submits that the difference between quarterly and annual figures showed that the appellant claimed excessive labour deductions during the VAT period, and that the appellant did not give a satisfactory explanation.

The Department says the turnover difference of Rs 40,754/- between the VAT records and GSTR-9C is not minor, because turnover consistency is fundamental. It submits that this discrepancy justified rejecting the accounts and applying Rule 14(3) read with the Notification dated 14.08.2013 to determine taxable turnover where actual figures are not reliable.

On natural justice, the Department submits that the appellant was given adequate opportunity of hearing and that the revisional order gives reasons based on the record and the dealer's explanation.

The Department therefore prays that the appeal be dismissed and the revisional order dated 18.02.2025 be upheld.

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Points for Determination

The following questions arise for determination:

1. Whether the assumption of jurisdiction under Section 52 was legally sustainable?
2. Whether the impugned revisional order satisfies the statutory test of legality and propriety?
3. Whether the revisional authority exceeded jurisdiction by travelling beyond the record?
4. Whether the findings on labour charges, turnover, rejection of books, and reliance on GST returns suffer from legal or procedural impropriety?

Discussion and Findings

The main issue in this appeal is the scope of revisional power under Section 52 and how turnover in works contracts is to be determined under Rule 14. For convenience, Section 52 is reproduced first, followed by the show-cause notice in this case.

Section 52 (Revision) — Uttarakhand Value Added Tax Act, 2005

(1) The Commissioner or such other officer not below the rank of Joint Commissioner as may be authorized in this behalf by the State Government by notification may call for and examine the record relating to any order (other than an order mentioned in Section 56) passed by any officer subordinate to him, for the purpose of satisfying himself as to the legality or propriety of such order, and may pass such order with respect thereto as he thinks fit.

(3) No order under sub-section (1) shall, subject to the provisions of sub-section (3) of Section 51, be passed— (a) to revise an order which is or has been the subject matter of an appeal under Section 51, or an order passed by the Appellate Authority under that section; (b) before the expiration of sixty days from the date of the order in question; (c) after the expiration of four years from the date of the order in question.

***Explanation**—Where the appeal against any order is withdrawn or is dismissed for non-payment of fee specified in Section 74, or for non-compliance of sub-section (1) of Section 51, the order shall not be deemed to have been a subject matter of an appeal under Section 51.*

After noting the limits of revision under Section 52, the show-cause notice issued in this case is reproduced below (verbatim):

"आपका वर्ष 2017–18 (प्रथम त्रैमास) का कर निर्धारण आदेश धारा–25 (7) सपठित धारा–31 के अन्तर्गत दिनांक–10.02.2022 को पारित किया गया है। उक्त पारित आदेश की जॉच पर लेखा परीक्षा दल द्वारा इंगित आपत्तियों के संदर्भ में कर निर्धारण अधिकारी द्वारा धारा 52 के अंतर्गत पुनः कर निर्धारण हेतु प्रेषित प्रस्ताव एवं इस परिपेक्ष्य में मेरे द्वारा कर निर्धारण पत्रावली व उक्त पारित कर

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some other form) involved in the execution of a works contract shall be computed on the **net turnover** relating to works contract.

(2) For the purposes of determining the net turnover referred to in sub-rule (1), the following amounts shall be deducted from the total amount received or receivable by a dealer: —

(a) the amount representing the sale value of the goods covered by section 3, section 4 and section 5 of the Central Sales Tax Act, 1956.

(b) the amount representing the value of the goods exempted under any provision of the Act.

(c) the amount representing the value of the goods on the sale or purchase where tax has been levied or is **leviable** under the Act at some earlier stage.

(d) the amount representing the value of the goods supplied to the contractor by the contractee, but the ownership of such goods remains with the contractee under the terms of the contract.

(e) the amount representing the labour charges for the execution of the works contract.

(f) all amounts paid to the sub-contractor as the consideration for execution of the works contract, whether wholly or in part:

Provided that no deduction under this sub-clause shall be allowedunless the dealer claiming deduction produces proof that the sub-contractor is aregistered dealer liable to tax under the Act and that such amount is included in the return of turnover filed by such sub-contractor under the provisions ofthe Act.

(g) the amount representing the charges for planning, designing and architects' fees.

(h) the amount representing the charges for obtaining on hire or otherwise machinery and tools used for execution of the works contract.

(i) the amount representing the cost of consumables used in the execution of the works contract, the property in which is not transferred in the execution of the contract.

(j) the amount representing the cost of establishment and other similar expenses of the contractor, to the extent it is relatable to supply of labour and services.

(k) the amount representing the profit earned by the contractor, to the extent it is relatable to the supply of labour and services.

Explanation: For the purposes of this rule, gross turnover means the aggregate of the amounts received or receivable by a dealer in an assessment year as valuable consideration for the transfer of property in goods used in the execution of a works contract, whether or not the amount receivable as valuable consideration for such transfer is separately shown in the works contract and whether the execution of such works contract commenced during the year or earlier, and includes any advance received by the dealer towards valuable consideration of the works contract.

(3) If the contractor does not maintain proper accounts, or if he has maintained the accounts but the amounts actually incurred towards charges for labour and other services mentioned in sub-rule (2), and the profit relating to supply of labour and services, or the sale price of goods involved in the execution of works contract are not ascertainable, then the State Government may, by notification, determine such deductible amount or the sale value of goods involved in the execution of works contract.

Rule 14(1) is the main rule for computing tax on works contracts, and Rule 14(2) lists the deductions to arrive at **net turnover**. Rule 14(3) is an exception. It applies only when proper accounts are not maintained, or when—despite accounts being kept—the key figures (such as labour/service charges and related profit) cannot be reliably worked out. So, Rule 14(3) does not override Rule 14(1)–(2); it can be used only when the conditions in Rule 14(3) are met.

In this case, the assessment order dated 10.02.2022 records that the appellant produced audited books, vouchers, and related records, and that the Assessing Authority accepted them. The assessment order does not say that accounts were not maintained or were unreliable. It also does not say that the figures needed under Rule 14(2) could not be worked out from the records. Without these basic findings, the revisional authority could not apply Rule 14(3) (or the Notification dated 14.08.2013) to replace the record-based method with an estimated method. This goes beyond the limits of Section 52 and makes the impugned revisional order unsustainable on this ground as well.

Point No. 1: Whether the assumption of jurisdiction under Section 52 was legally sustainable?

The revision was started only on the basis of audit objections. The notice does not show that the revisional authority formed independent satisfaction from the

assessment record. For the reasons stated above (see *Indian & Eastern Newspaper Society*, (1979) 4 SCC 248; *Songwon Speciality Chemicals*, 2025 (12) TMI 1054 (SC)), the assumption of revisional jurisdiction is not legally sustainable.

Point No. 2: Whether the impugned revisional order satisfies the statutory test of legality and propriety?

For the reasons stated above (see *Dilbahar Singh*, (2014) 9 SCC 78; *Kanpur Edibles*, 2008 (10) TMI 352 (SC)), the impugned revisional order effectively makes a fresh assessment by recomputing turnover and deductions and by replacing the assessment view taken on accepted books. It therefore fails the statutory test of legality and propriety.

Point No. 3: Whether the revisional authority exceeded jurisdiction by travelling beyond the record?

The revisional authority relied on GSTR-9/GSTR-9C (GST returns) to disturb a VAT assessment for 01.04.2017 to 30.06.2017. This material is outside the "record relating to the order". For the reasons stated above (see *K.M. Charia Abdullah*, decided on 05.10.1964), the revisional authority exceeded its jurisdiction by travelling beyond the record.

Point No. 4: Whether the findings on labour charges, turnover, rejection of books, and reliance on GST returns suffer from legal or procedural impropriety?

(i) **Labour charges**: The adverse inference is based on a broad proportional comparison, without contract-wise verification or any identified defect in vouchers/records. Such replacement of the assessment view on accepted material is not permitted in revision (see *Dilbahar Singh*, (2014) 9 SCC 78; *Kelvinator*, (2010) 2 SCC 723).

(ii) **Turnover difference / rejection of books / Rule 14(3)**: Rejecting audited and accepted books for a small difference of Rs 40,754/- is disproportionate. Further, Rule 14(3) is a fallback provision and can be used only after basic findings that accounts were not proper or that the relevant figures were not ascertainable from reliable records. Those findings are absent here. Therefore, the rejection of books and the use of Rule 14(3) are not sustainable.

(iii) **GST returns**: The revisional authority could not rely on GSTR-9/GSTR-9C because they are outside the VAT assessment record. Such reliance is not permitted in revision.

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(iv) **Natural justice**: The show-cause notice was limited, but the revisional order records adverse findings on additional grounds without any further notice or opportunity. For the reasons stated above (see *Binapani Dei*, (1967) 2 SCR 625), those findings are vitiated.

Accordingly, **Point Nos. 1 and 2 are answered in the negative**, and **Point Nos. 3 and 4 are answered in the affirmative.**

Conclusion

On an overall reading of the law, the notice, and the assessment record, the Tribunal finds that the revision suffers from jurisdictional and procedural defects. The revision was started on an audit objection without showing independent satisfaction; the revisional authority then proceeded like a reassessment by recomputing turnover and deductions; and it relied on GSTR-9/GSTR-9C, which are outside the VAT assessment record for the quarter in question. Also, given the structure of Rule 14(1) to Rule 14(3), Rule 14(3) could not be applied without first recording the basic findings required by Rule 14(3).

Therefore, for the reasons recorded under Point Nos. 1 to 4, the revisional order dated 18.02.2025 cannot stand and is set aside. The assessment order dated 10.02.2022, passed after scrutiny and acceptance of audited books for the relevant VAT period, is restored.

Order

The Second Appeal is **allowed**. The Points for Determination are answered as recorded above: Point Nos. 1 and 2 in the negative, and Point Nos. 3 and 4 in the affirmative.

As a result, the revisional order dated 18.02.2025 passed under Section 52 of the Uttarakhand Value Added Tax Act, 2005 is **set aside**. The assessment order dated 10.02.2022 passed under Section 25(7) read with Section 31 of the Act is **restored**. Any further action, if required, shall be taken in accordance with law.

s/d- 13 .04.2026
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Member,
Commercial Tax Tribunal,
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s/d- 13 .04.2026
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President,
Commercial Tax Tribunal,
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Date: 13.04.2026