

**IN THE COMMERCIAL TAX TRIBUNAL, UTTARAKHAND, HALDWANI,
(SINGLE MEMBER BENCH)**

Present: Shri Rakesh Verma, Member

Second Appeal No. 117/2025 (Assessment Year 2013-14) (April—State) under
Section 58(1)(vii)

Second Appeal No. 118/2025 (Assessment Year 2013-14) (April—Central) under
Section 58(1)(vii)

Second Appeal No. 119/2025 (Assessment Year 2013-14) (July—State) under
Section 58(1)(vii)

Second Appeal No. 120/2025 (Assessment Year 2013-14) (July—Central) under
Section 58(1)(vii)

Second Appeal No. 121/2025 (Assessment Year 2013-14) (October—State) under
Section 58(1)(vii)

Second Appeal No. 122/2025 (Assessment Year 2013-14) (October—Central)
under Section 58(1)(vii)

Second Appeal No. 123/2025 (Assessment Year 2013-14) (November—Central)
under Section 58(1)(vii)

M/s Dev Rishi Papers Pvt. Ltd., Kashipur Road, Jaspur

Appellant

Versus

Commissioner, State Tax, Uttarakhand

Respondent

For the Appellant (Dealer): Shri Rakesh Kumar Agrawal, Advocate

For the Respondent (Department): Smt. Hemlata Shukla, State Representative

**Sec.App. No. 117,118,119,120
121,122,123/ 2025**

**s/d
(Rakesh Verma)**

JUDGMENT

Introduction

These seven second appeals—Second Appeal Nos. 117 to 123 of 2025 for Assessment Year 2013–14—have been filed by M/s Dev Rishi Papers Pvt. Ltd., Kashipur Road, Jaspur (“the appellant/dealer”) under Section 58 of the Uttarakhand Value Added Tax Act, 2005 (“the Act”). All the appeals arise from a common appellate order dated 02-06-2025 passed by the Joint Commissioner (Appeals), State Tax, Haldwani (“the First Appellate Authority”). By that order, the First Appellate Authority affirmed the penalty orders dated 30-09-2019 passed by the Assessing Authority under Section 58(1)(vii) of the Act. Since all appeals involve the same facts and the same legal issue—penalty for a short delay in depositing admitted tax, even though interest was paid—they are heard together and decided by this common judgment.

Facts of the Case

The appellant is a registered dealer engaged in the manufacture and sale of kraft paper. For Assessment Year 2013–14, the dealer was required to deposit the admitted tax for each tax period within the prescribed time. It is admitted that the dealer deposited the admitted tax with short delays: 03 days for April 2013 (State and Central), 02 days for July 2013 (State and Central), 05 days for October 2013 (State and Central), and 06 days for November 2013 (Central). The dealer also paid the applicable interest for the delayed period. Even so, the Assessing Authority passed penalty orders dated 30-09-2019 and imposed penalty at the rate of 10% under Section 58(1)(vii) of the Act for the respective periods. The dealer filed first appeals. However, by order dated 02-06-2025, the First Appellate Authority dismissed the appeals and upheld the penalties.

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The penalty particulars for the relevant tax periods (Second Appeal Nos. 117/2025 to 123/2025) are summarised below:

For clarity, paragraphs (1) to (7) below correspond to Second Appeal Nos. 117/2025 to 123/2025, respectively.

- (1) In Second Appeal No. 117/2025 (April 2013—State), the admitted tax was Rs. 529,685.00. Penalty was levied at 10% amounting to Rs. 52,968.00. The due date for deposit was 25-05-2013, whereas the dealer deposited the tax on 28-05-2013, resulting in a delay of 03 days.
- (2) In Second Appeal No. 118/2025 (April 2013—Central), the admitted tax was Rs. 150,990.00. Penalty was levied at 10% amounting to Rs. 15,099.00. The due date for deposit was 25-05-2013, whereas the dealer deposited the tax on 28-05-2013, resulting in a delay of 03 days.
- (3) In Second Appeal No. 119/2025 (July 2013—State), the admitted tax was Rs. 474,489.00. Penalty was levied at 10% amounting to Rs. 47,450.00. The due date for deposit was 25-08-2013, whereas the dealer deposited the tax on 27-08-2013, resulting in a delay of 02 days.
- (4) In Second Appeal No. 120/2025 (July 2013—Central), the admitted tax was Rs. 128,429.00. Penalty was levied at 10% amounting to Rs. 12,843.00. The due date for deposit was 25-08-2013, whereas the dealer deposited the tax on 27-08-2013, resulting in a delay of 02 days.
- (5) In Second Appeal No. 121/2025 (October 2013—State), the admitted tax was Rs. 384,739.00. Penalty was levied at 10% amounting to Rs. 38,474.00. The due date for deposit was 25-11-2013, whereas the dealer deposited the tax on 30-11-2013, resulting in a delay of 05 days.

(6) In Second Appeal No. 122/2025 (October 2013—Central), the admitted tax was Rs. 196,896.00. Penalty was levied at 10% amounting to Rs. 19,690.00. The due date for deposit was 25-11-2013, whereas the dealer deposited the tax on 30-11-2013, resulting in a delay of 05 days.

(7) In Second Appeal No. 123/2025 (November 2013—Central), the admitted tax was Rs. 217,520.00. Penalty was levied at 10% amounting to Rs. 21,752.00. The due date for deposit was 25-12-2013, whereas the dealer deposited the tax on 31-12-2013, resulting in a delay of 06 days.

Submissions of the Appellant (Dealer)

Learned counsel for the appellant submitted that the penalties are not sustainable on facts or in law. The submissions are as follows:

- (a) the delay in deposit of admitted tax was only for a few days, i.e., 03 days (April 2013—State and Central), 02 days (July 2013—State and Central), 05 days (October 2013—State and Central) and 06 days (November 2013—Central);
- (b) the entire admitted tax stood deposited and the statutory interest for the delayed period was also paid; hence the revenue suffered no loss, and levy of penalty at the rate of 10% on the admitted tax is harsh and disproportionate.
- (c) the delay occurred due to temporary shortage of funds in the ordinary course of business on account of delayed realization from purchasers in credit transactions, which constitutes a reasonable cause in the facts of the case.

Accordingly, the appellant prayed that the appellate order dated 02-06-2025 and the penalty orders dated 30-09-2019 be set aside and that the appeals be allowed.

Submissions of the Respondent (Department)

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On the other hand, learned State Representative submitted that the appellant has not shown any “reasonable cause” for the admitted delay. It was argued that, apart from a general plea of shortage of funds/delayed realization, the appellant did not file any supporting documents (such as accounts, bank statements, or other records made at the relevant time) either before the Assessing Authority or in first appeal. It was further submitted that the Act requires admitted tax to be deposited within the due dates and this legal requirement cannot be relaxed on the basis of an unproved explanation. Therefore, it was prayed that the appellate order be upheld and the appeals be dismissed.

Points for Determination

Based on the pleadings, the submissions of both sides, and the record, the following points arise for decision in these connected appeals:

- (1) Whether the appellant has established a “reasonable cause” for the delay (02 to 06 days) in deposit of admitted tax for the relevant tax periods, so as to avoid penalty under Section 58(1)(vii) of the Act?
- (2) Whether, in the facts and circumstances, the penalty orders dated 30-09-2019 and the appellate order dated 02-06-2025 warrant interference in these second appeals?

Discussion and Findings

The delay in deposit of admitted tax is admitted. The only reason stated is shortage of funds/delayed realization from purchasers. “Reasonable cause” is an exception to penalty under Section 58(1)(vii), and the burden to plead and prove it lies on the dealer/appellant by reliable and contemporaneous evidence; failing this, penalty must follow. A general explanation, without records, cannot be accepted as proof.

The Tribunal therefore examines whether the appellant has discharged this burden for each tax period.

When financial difficulty is pleaded as reasonable cause, the Tribunal expects the dealer/appellant to place basic particulars on record, so that the claim can be tested objectively. For example, the dealer/appellant should ordinarily produce (i) bank statements and bank limits around the due date, (ii) month-wise cash position/cash-flow around the due date, (iii) details of major receivables and dates of realization, (iv) proof of any sudden and unexpected blocking of funds, and (v) steps taken to arrange funds in time (such as seeking overdraft/loan or rescheduling payments). The dealer/appellant had full opportunity at the stage of assessment, in first appeal, and before this Tribunal to file such material. However, no such particulars or supporting records have been produced. Therefore, the plea of shortage of funds remains a bare statement and does not prove reasonable cause.

The appellant also argues that since the admitted tax was deposited and interest was paid, penalty should not be imposed. This submission cannot be accepted. Payment of interest only compensates the revenue for the late deposit; it does not by itself explain the delay or prove reasonable cause. "Reasonable cause" means a reason beyond the dealer's control which prevents timely payment even after the dealer acts with normal care and due diligence. In the present case, no unavoidable circumstance is proved on record. There is also no material to show that the dealer/appellant acted with due diligence but still could not deposit the admitted tax by the due dates. Accordingly, reasonable cause is not made out, and the dealer/appellant has failed to do so.

The Act and the relevant Rules fix clear due dates for deposit of admitted tax. These are statutory timelines meant to ensure regular collection of revenue. Section

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58(1)(vii) provides for penalty when admitted tax is not deposited within time, unless the dealer/appellant proves reasonable cause. Therefore, once delay is admitted and reasonable cause is not proved on record, the legal consequence under Section 58(1)(vii) follows.

The appellant relies on *Hindustan Steel Ltd. vs. State of Orissa* [1970 (25) STC 211; 1972 (83) ITR 26 (SC)] to say that penalty is not automatic and discretion must be exercised judicially. This principle is accepted. But it does not mean that penalty must be waived in every case of delay. The discretion has to be exercised on the facts proved on record. Here, the appellant has not proved any bona fide and unavoidable circumstance with supporting evidence. The duty to deposit admitted tax within time is statutory, and the explanation offered is unsubstantiated. Therefore, even applying the above Hon'ble Supreme Court principle, no case is made out to interfere with the concurrent findings of the authorities below or to grant relief. The penalty under Section 58(1)(vii) is therefore justified.

Thus, even on the test laid down in *Hindustan Steel*, the present case does not warrant waiver of penalty. The dealer/appellant has not discharged the burden of proving reasonable cause with reliable and contemporaneous evidence, and the explanation remains unsubstantiated. In such circumstances, the discretion cannot be exercised in favour of the dealer/appellant, and the statutory consequence under Section 58(1)(vii) must follow.

In *Union of India vs. Dharmendra Textile Processors* (2008) 13 SCC 369, the Hon'ble Supreme Court held that for penalties under fiscal laws, *mens rea* is not required unless the statute says so; therefore, once default is proved and reasonable cause is not proved, penalty follows.

Accordingly, no finding as to *mens rea* or guilty intention is required. The default is admitted and the statutory due dates were not complied with. The onus therefore lay on the dealer/appellant to bring on record cogent, contemporaneous material establishing “reasonable cause”; a mere plea of financial difficulty does not suffice. In the absence of such proof, Section 58(1)(vii) is attracted, and the penalty must follow.

In *Chairman, SEBI vs. Shriram Mutual Fund* (2006) 5 SCC 361, the Hon’ble Supreme Court held that once breach/default is proved, penalty can follow and intention is generally irrelevant unless made relevant by the statute.

Applying *SEBI vs. Shriram Mutual Fund*, once the statutory default is established, the dealer/appellant cannot avoid penalty merely by saying the delay was short or that there was no intention to default, because intention is generally not relevant unless the statute makes it relevant. The dealer/appellant can avoid penalty only by proving “reasonable cause” as an exception, by reliable and contemporaneous evidence. Since no such evidence has been produced, penalty under Section 58(1)(vii) follows.

Similarly, in *Gujarat Travancore Agency vs. Commissioner of Income Tax* (1989) 177 ITR 455 (SC), the Hon’ble Supreme Court observed that penalty for statutory default does not require *mens rea* unless the statute provides otherwise.

In view of *Dharmendra Textile, SEBI vs. Shriram* and *Gujarat Travancore Agency*, the law is settled: for penalties under fiscal statutes, *mens rea* is not required unless the statute makes it a condition, and once a statutory default is proved, the penalty provision operates. Here, the statutory default is admitted—the admitted tax was deposited after the due dates. “Reasonable cause” is an exception to penalty under Section 58(1)(vii), and the burden to plead and prove it lies on the dealer/appellant

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by reliable and contemporaneous evidence; failing this, penalty must follow. The dealer/appellant has produced no reliable and contemporaneous material at any stage to show any unavoidable reason or due diligence. The Tribunal therefore has no basis to grant any indulgence, and the penalty under Section 58(1)(vii) necessarily follows.

Conclusion

Point No. (1) is decided against the appellant. The delay in deposit of admitted tax is admitted. "Reasonable cause" is an exception to penalty under Section 58(1)(vii), and the burden to plead and prove it lies on the dealer/appellant by reliable and contemporaneous evidence; failing this, penalty must follow. In the present case, the dealer/appellant has not proved reasonable cause despite opportunity. Therefore, penalty under Section 58(1)(vii) is justified. Point No. (2) is also decided against the appellant, as no legal error or perversity is shown in the penalty orders dated 30-09-2019 or the appellate order dated 02-06-2025, warranting interference under Section 58 of the Act.

Final Order

For the reasons given above, and in exercise of second appellate powers under Section 58 of the Uttarakhand Value Added Tax Act, 2005 ("the Act"), this Tribunal confirms the common appellate order dated 02-06-2025 passed by the Joint Commissioner (Appeals), State Tax, Haldwani. The penalty orders dated 30-09-2019, passed by the Assessing Authority under Section 58(1)(vii) of the Act for late deposit of admitted tax (as required by the Act and the relevant Rules), are also confirmed. Accordingly, the connected second appeals are decided as under:

- (i) **Second Appeal No. 117/2025** (A.Y. 2013–14) (April—State): dismissed under **Section 58**; penalty of **Rs. 52,968/-** levied under **Section 58(1)(vii)** is upheld.
- (ii) **Second Appeal No. 118/2025** (A.Y. 2013–14) (April—Central): dismissed under **Section 58**; penalty of **Rs. 15,099/-** levied under **Section 58(1)(vii)** is upheld.
- (iii) **Second Appeal No. 119/2025** (A.Y. 2013–14) (July—State): dismissed under **Section 58**; penalty of **Rs. 47,450/-** levied under **Section 58(1)(vii)** is upheld.
- (iv) **Second Appeal No. 120/2025** (A.Y. 2013–14) (July—Central): dismissed under **Section 58**; penalty of **Rs. 12,843/-** levied under **Section 58(1)(vii)** is upheld.
- (v) **Second Appeal No. 121/2025** (A.Y. 2013–14) (October—State): dismissed under **Section 58**; penalty of **Rs. 38,474/-** levied under **Section 58(1)(vii)** is upheld.
- (vi) **Second Appeal No. 122/2025** (A.Y. 2013–14) (October—Central): dismissed under **Section 58**; penalty of **Rs. 19,690/-** levied under **Section 58(1)(vii)** is upheld.
- (vii) **Second Appeal No. 123/2025** (A.Y. 2013–14) (November—Central): dismissed under **Section 58**; penalty of **Rs. 21,752/-** levied under **Section 58(1)(vii)** is upheld.

The office shall place a copy of this common judgment in each connected appeal file for reference and compliance.

s/d

(Rakesh Verma)

Member

**Commercial Tax Tribunal,
Uttarakhand (Haldwani Bench)**

Dated:24-04-2026