Commercial Tax Tribunal
UTTARAKHAND, Haldwani Bench

Hon'ble Shri Gurubaksh Singh, H.J.S. — Chairman
Hon'ble Shri Rakesh Verma, Member

Second Appeal No. 127 of 2025
Assessment Year: 2015–16

(Under Section 9(2) of the Central SalesTax Act, 1956)

M/s M.S.Q.Enterprises, Rudrapur
Appellant / Dealer

VERSUS

Commissioner, Commercial Tax, Uttarakhand, Dehradun
... Respondent / Department

For the Appellant: Shri Joginder Singh, Ld. Advocate

For the Respondent: Shri Sashikant Arya, Dy. Commissioner & State Representative, Commercial Tax

JUDGMENT

Rakesh Verma, Member

1. Introduction. This second appeal has been preferred by the dealer, M/s M.S.Q. Enterprises, Rudrapur, under Section 53 of the Uttarakhand Value Added Tax Act, 2005, against the order dated 22-07-2025 passed by the First Appellate Authority, Joint Commissioner (Appeal), Haldwani. By the said order, the appeal filed by the dealer against the assessment order dated 14-12-2021 passed by the Deputy Commissioner (Assessment) was dismissed and the assessment order was confirmed. Being aggrieved by the said order, the dealer has filed the present second appeal before this Tribunal.

2. **Facts of the Case.**

3. The dealer is registered with the Department for the purchase and sale of iron, steel and miscellaneous scrap. For the assessment year 2015–16, the dealer was assessed under Section25(7) of the Uttarakhand Value Added Tax Act, 2005 as well as under Section 9(2) of the Central Sales Tax Act, 1956, vide assessment order dated 14-12-2021 passed by the Deputy Commissioner (Assessment), Rudrapur. The books of account produced by the dealer were accepted by the Assessing Authority. However, sales amounting to Rs. 89,57,901 were claimed to have been made against Form C, which was not produced before the Assessing Authority at the relevant stage. The said sales comprised both gatta scrap and iron scrap. It is the case of the dealer that iron scrap attracts tax at the rate of 5 per cent and that levy of tax at the rate of 13.5 per cent on the entire disputed turnover is not justified.

4. Aggrieved by the assessment order dated 14-12-2021, the dealer preferred First Appeal No. 270 of 2022 before the First Appellate Authority. The First Appellate Authority decided the appeal ex parte and dismissed First Appeal No. 270 of 2022 by order dated 22-07-2025. Being aggrieved by the order of the First Appellate Authority, the dealer has filed the present second appeal before this Tribunal.

5. Submission of the Appellant. Learned counsel for the appellant submitted that the books of account of the dealer were duly produced before the Assessing Authority and were accepted. It was further submitted that the disputed turnover of Rs. 89,57,901 related to sales made against Form C. However, one declaration form, namely Form C bearing Serial No. 0491273 for an amount of Rs. 34,77,382, though issued by the purchasing dealer, was subsequently lost by the appellant and could not be produced in original at the time of assessment. Learned counsel submitted that the counterfoil of the said Form C was filed during the original assessment proceedings, but the Assessing Authority did not extend the statutory benefit on that basis.

6. It was further submitted that another Form C bearing Serial No. 0588090, for a sum of Rs. 34,77,382, was issued by the purchasing dealer in accordance with Rule 12(3) of the Central Sales Tax (Registration and Turnover) Rules, 1957. The appellant subsequently filed the original Form C bearing Serial No. 0588090 on 25-10-2025 vide Receipt No.111568 and requested that the same be taken on record and that statutory benefit be granted in accordance with law. It was also contended that the disputed sales comprised both gatta scrap and iron scrap, and that the Assessing Authority erred in levying tax at the higher rate of 13.5 per cent on the entire turnover without properly identifying and segregating the goods sold.

7. Learned counsel for the appellant further contended that iron scrap is taxable at the rate of 5 per cent and, therefore, levy of tax at the rate of 13.5 per cent on the entire disputed turnover is contrary to the applicable statutory provisions as well as the facts on record. It was also submitted that the First Appellate Authority disposed of the appeal ex parte without affording the appellant a proper and effective opportunity of hearing and without adequately examining

the grounds raised in appeal. On these submissions, it was prayed that the impugned appellate order be set aside and appropriate relief be granted to the appellant.

8. Submission of the Respondent. Learned State Representative, appearing for the respondent Department, supported the assessment order as well as the order passed by the First Appellate Authority. It was submitted that the appellant failed to furnish the requisite Form C declarations in support of the disputed inter-State sales at the relevant stage. In the absence of the prescribed statutory declarations, the appellant was not entitled to the benefit of concessional rate of tax under the Central Sales Tax Act, 1956.

9. It was further submitted that the burden lay upon the dealer to substantiate its claim for concessional rate of tax as well as its plea regarding the classification of goods. According to the respondent, the dealer failed to discharge the said burden before the Assessing Authority and also before the First Appellate Authority. It was, therefore, contended that the assessment order and the appellate order are legal, proper and justified, and no interference is called for in the present second appeal. The respondent accordingly prayed that the appeal be dismissed.

10. Statutory Provisions. Section 9(2) of the Central Sales Tax Act, 1956 provides that the authorities empowered under the general sales tax law of the appropriate State to assess, reassess, collect and enforce payment of tax are also empowered, on behalf of the Government of India, to assess, reassess, collect and enforce payment of tax payable by a dealer under the Central Sales Tax Act. Section 25(7) of the Uttarakhand Value Added Tax Act, 2005 provides for assessment by the prescribed authority in accordance with the provisions of the said Act.

11. Under the scheme of the Central Sales Tax Act, concessional rate of tax on inter-State sales can be availed only upon furnishing the prescribed declaration in Form C in the manner required by law. Where such declaration is not produced or is not found admissible, the dealer is not entitled to claim concessional rate merely on assertion. In such circumstances, the transaction is liable to be taxed at the rate applicable under the relevant State law, having regard to the nature and classification of the goods involved.

12. Points for Determination. Upon consideration of the orders passed by the authorities below, the material available on record and the rival submissions advanced by the parties, the following points arise for determination in the present appeal: (i) whether the appellant is entitled to the benefit of concessional rate of tax in respect of the disputed turnover on the basis of Form C declarations; (ii) whether the authorities below were justified in levying tax at the rate of 13.5 per cent on the entire disputed turnover without examining the nature and classification of the goods sold; and (iii) whether the ex parte order passed by the First Appellate Authority suffers from lack of proper consideration and calls for interference by this Tribunal.

13. Discussion and Findings. We have carefully considered the rival submissions advanced by the parties and perused the material available on record. It is an admitted position that the books of account produced by the dealer were accepted by the Assessing Authority. The dispute mainly relates to denial of concessional rate of tax in respect of sales stated to have been made against Form C declarations. The record shows that the appellant has relied upon Form C declarations, including the counterfoil of one form and the subsequent filing of another original Form C, in support of its claim. Therefore, the claim for concessional tax benefit was required to be examined in the light of the statutory requirements and the material produced by the appellant.

14. The matter, however, cannot be decided solely on the ground of non-production of Form C. The appellant has specifically pleaded that the disputed turnover comprised sales of both gatta scrap and iron scrap, and that iron scrap is taxable at the rate of 5 per cent. Where the disputed turnover consists of goods falling under different tax classifications, it is incumbent upon the Assessing Authority to examine the nature of the goods sold and apply the rate of tax applicable to each category in accordance with law. In the absence of such examination, levy of tax at the rate of 13.5 per cent on the entire disputed turnover cannot be sustained.

15. It is also evident that the First Appellate Authority dismissed the appeal ex parte. Even where an appellant remains absent, the appellate authority is required to consider the grounds raised in the appeal, examine the material

available on record and pass a reasoned and speaking order on the merits of the controversy. In the present case, the issues relating to production of Form C declarations, classification of goods and the applicable rate of tax required independentconsideration. The impugned appellate order, having failed to deal with these material aspects, cannot be sustained.

16. In view of the foregoing discussion, we are of the considered opinion that the appellant's claim for concessional rate of tax on the basis of Form C declarations, as well as its plea regarding classification of the goods sold, required proper examination by the authorities below. The benefit of concessional rate cannot be granted as a matter of course unless the statutory requirements are satisfied. At the same time, the rate of tax applicable to the disputed turnover must be determined with reference to the actual nature and classification of the goods. The matter, therefore, deserves to be remanded to the Assessing Authority for fresh consideration on the limited issues of admissibility of Form C benefit, classification of goods and applicable rate of tax, after affording reasonable opportunity of hearing to the appellant.

17. Conclusion. For the reasons recorded above, the second appeal deserves to be partly allowed. The orders passed by the Assessing Authority and the First Appellate Authority cannot be sustained to the extent that they deny proper consideration of the appellant's claim regarding Form C declarations and levy tax at the rate of 13.5 per cent on the entire disputed turnover without examining the nature and classification of the goods sold. The matter is accordingly required to be remanded to the Assessing Authority for fresh consideration, limited to the admissibility of Form C benefit, classification of goods and determination of the applicable rate of tax.

18. Order. The appeal is partly allowed. The impugned order dated 22-07-2025 passed by the First Appellate Authority and the assessment order dated 14-12-2021 passed by the Deputy Commissioner (Assessment), Rudrapur are set aside to the limited extent indicated above. The matter is remanded to the Assessing Authority for limited adjudication on the issues of admissibility and evidentiary value of the Form C declarations/counterfoil, classification of the goods sold and determination of the applicable rate of tax. The Assessing Authority shall afford reasonable opportunity of hearing to the dealer, permit production of relevant evidence, if any, undertake due verification of the Form C declarations/counterfoil and classification of goods, and thereafter pass a fresh reasoned order in accordance with law. Consequential relief, if any, shall be granted to the dealer in accordance with law.

Order accordingly.

S/D-
(Rakesh Verma)
Member
Commercial Tax Tribunal
Uttarakhand,

S/D- 25-06-2026
(Gurubaksh Singh)
Chairman
Commercial Tax Tribunal
Uttarakhand,

Place—Haldwani
Dated--25-06-2026