COMMERCIAL TAX TRIBUNAL, UTTARAKHAND, DEHRADUN

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

1. Second Appeal No. 07/2026 | Assessment Year 2016–17 | First Quarter

Under Section 58 read with Section 58(1)(vii)(a) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand

… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

2. Second Appeal No. 08/2026 | Assessment Year 2016–17 | Third Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand

… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

3. Second Appeal No. 09/2026 | Assessment Year 2016–17 | Third Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand

… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

4. Second Appeal No. 10/2026 | Assessment Year 2016–17 | Third Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand

… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

5. Second Appeal No. 11/2026 | Assessment Year 2016–17 | Second Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

6. Second Appeal No. 12/2026 | Assessment Year 2016–17 | Fourth Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand

… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

7. Second Appeal No. 13/2026 | Assessment Year 2016–17 | Third Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand

… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

8. Second Appeal No. 14/2026 | Assessment Year 2016–17 | Fourth Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand

… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar

… Respondent (Dealer)

9. Second Appeal No. 15/2026 | Assessment Year 2016–17 | First Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

10. Second Appeal No. 16/2026 | Assessment Year 2016–17 | First Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

11. Second Appeal No. 18/2026 | Assessment Year 2016–17 | Fourth Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

12. Second Appeal No. 19/2026 | Assessment Year 2016–17 | First Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

13. Second Appeal No. 20/2026 | Assessment Year 2016–17 | First Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

14. **Second Appeal No. 21/2026** | Assessment Year 2016–17 | Second Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

15. **Second Appeal No. 22/2026** | Assessment Year 2016–17 | Second Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

16. **Second Appeal No. 23/2026** | Assessment Year 2016–17 | Fourth Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

17. **Second Appeal No. 24/2026** | Assessment Year 2016–17 | Fourth Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand

… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

18. Second Appeal No. 25/2026 | Assessment Year 2016–17 | Fourth Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

19. Second Appeal No. 26/2026 | Assessment Year 2016–17 | Third Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

20. Second Appeal No. 27/2026 | Assessment Year 2016–17 | Second Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar
… Respondent (Dealer)

21. Second Appeal No. 28/2026 | Assessment Year 2016–17 | First Quarter

Under Section 58 read with Section 58(1)(vii) of the Uttarakhand VAT Act, 2005

Commissioner, State Tax, Uttarakhand
… Appellant (Department)

Versus

M/s Chandan Filling Station, Laksar, Haridwar

… Respondent (Dealer)

For the Appellant: Shri Bhuwan Chandra Pandey, Deputy Commissioner (State Tax), State Representative

For the Respondent: Shri Pankaj Sharma, Learned Advocate

COMMON JUDGMENT

Gurubaksh Singh- Chairman

Introduction

1. All above these twenty-one connected second appeals, namely Second Appeal Nos. 07/2026 to 16/2026 and 18/2026 to 28/2026, have been preferred by the Commissioner, State Tax, Uttarakhand, Dehradun under Section 58 of the Uttarakhand Value Added Tax Act, 2005. They relate to Assessment Year 2016–17 and arise out of the common order dated 23-09-2025 passed by the Joint Commissioner (Appeals), Dehradun in twenty-one first appeals filed by the respondent, M/s Chandan Filling Station, Khanpur Road, Laksar, Haridwar. As the appeals involve the same dealer, assessment year, statutory provision, and common appellate order, they were heard together and are being disposed of by this common judgment.

2. The controversy in this batch is limited to penalties imposed under Section 58(1)(vii)(a) of the Act for delayed deposit of admitted tax during different quarters of Financial Year 2016–17. The fact that the admitted tax was

deposited after the prescribed due dates is not substantially disputed. The principal question is **–" whether the delay in each tax period was supported by "reasonable cause" so as to justify the deletion of penalties by the First Appellate Authority."**

Facts of the Case

3. The respondent, M/s Chandan Filling Station, Khanpur Road, Laksar, Haridwar, is a registered dealer under the Act bearing TIN 05015313027 and is engaged in the business of purchasing and selling diesel, petrol, and lubricant oil. During the Financial Year 2016–17, the respondent was required to deposit the admitted tax within the prescribed time. Although the admitted tax for the relevant periods was ultimately deposited, it was paid after the statutory due dates, either wholly or partly. Therefore, the default was related not to the assessment of liability but to the delayed payment of admitted tax. On noticing such delays, the Assessing Authority initiated penalty proceedings under Section 58(1)(vii)(a) of the Act and, by common Penalty Order No. 241 dated 01-12-2022, imposed separate penalties for the respective tax periods according to the delay, amount involved, and applicable statutory rate.

4. Aggrieved by the common penalty order dated 01-12-2022, the respondent filed twenty-one separate first appeals before the Joint Commissioner (Appeals), Dehradun, each relating to a distinct tax period and penalty. The respondent did

not seriously dispute the delayed deposit of the admitted tax but pleaded hardship and circumstances beyond control. By common order dated 23-09-2025, the First Appellate Authority accepted the plea, allowed all twenty-one appeals, and set aside the penalties. The Department has preferred the present second appeals, contending that relief was granted without proper application of the statutory requirement of "reasonable cause" under Section 58(1)(vii)(a) and without tax period-wise examination of the material on record.

5. For proper appreciation of the controversy, the tax period-wise particulars forming the basis of the penalties, together with the corresponding first appeal numbers, are set out below. These particulars record, for each second appeal, the relevant tax period, due date for deposit, amount deposited late, actual date of deposit, period of delay, applicable penalty rate, penalty amount, and corresponding first appeal number. They are borne out from the assessment and penalty records and, so far as the fact of delayed deposit is concerned, are not disputed by either side. They are therefore necessary for examining whether the respondent established reasonable cause separately for each tax period.

5(a). In Second Appeal No. 07/2026, relating to the 1st Quarter, the due date for deposit was 20-07-2016. The amount deposited late was Rs. 2,80,000/- which was deposited on 26-08-2016 after a delay of 37 days. Penalty was imposed at 20%, amounting to Rs. 56,000/- corresponding to First Appeal No. 154/2025.

5(b). In Second Appeal No. 15/2026, relating to the 1st Quarter, the due date for deposit was 20-07-2016. The amount deposited late was Rs. 11,33,400/- which was deposited on 18-09-2016 after a delay of 59 days. Penalty was imposed at 20%, amounting to Rs. 2,26,680/- corresponding to First Appeal No. 162/2025.

5(c). In Second Appeal No. 16/2026, relating to the 1st Quarter, the due date for deposit was 20-07-2016. The amount deposited late was Rs. 1,72,170/- which was deposited on 19-09-2016 after a delay of 60 days. Penalty was imposed at 20%, amounting to Rs. 34,434/- corresponding to First Appeal No. 163/2025.

5(d). In Second Appeal No. 19/2026, relating to the 1st Quarter, the due date for deposit was 20-07-2016. The amount deposited late was Rs. 3,00,000/- which was deposited on 09-09-2016 after a delay of 51 days. Penalty was imposed at 20%, amounting to Rs. 60,000/- corresponding to First Appeal No. 166/2025.

5(e). In Second Appeal No. 20/2026, relating to the 1st Quarter, the due date for deposit was 20-07-2016. The amount deposited late was Rs. 2,00,000/- which was deposited on 30-08-2016 after a delay of 40 days. Penalty was imposed at 20%, amounting to Rs. 40,000/- corresponding to First Appeal No. 167/2025.

5(f). In Second Appeal No. 28/2026, relating to the 1st Quarter, the due date for deposit was 20-07-2016. The amount deposited late was Rs. 2,00,000/- which was deposited on 19-08-2016 after a delay of 29 days. Penalty was imposed at 5%, amounting to Rs. 10,000/- corresponding to First Appeal No. 175/2025.

5(g). In Second Appeal No. 11/2026, relating to the 2nd Quarter, the due date for deposit was 20-10-2016. The amount deposited late was Rs. 3,00,000/- which was deposited on 02-11-2016 after a delay of 12 days. Penalty was imposed at 5%, amounting to Rs. 15,000/- corresponding to First Appeal No. 158/2025.

5(h). In Second Appeal No. 21/2026, relating to the 2nd Quarter, the due date for deposit was 20-10-2016. The amount deposited late was Rs. 1,50,000/- which was deposited on 10-11-2016 after a delay of 19 days. Penalty was imposed at 5%, amounting to Rs. 7,500/- corresponding to First Appeal No. 168/2025.

5(i). In Second Appeal No. 22/2026 relating to the 2nd Quarter, the due date for deposit was 20-10-2016. The amount deposited late was Rs. 2,00,000/- which was deposited on 06-11-2016 after a delay of 15 days. Penalty was imposed at 5%, amounting to Rs. 10,000/- corresponding to First Appeal No. 169/2025.

5(j). In Second Appeal No. 27/2026, relating to the 2nd Quarter, the due date for deposit was 20-10-2016. The amount deposited late was Rs. 4,00,000/- which was deposited on 10-11-2016 after a delay of 19 days. Penalty was imposed at 5%, amounting to Rs. 20,000/- corresponding to First Appeal No. 174/2025.

5(k). In Second Appeal No. 08/2026, relating to the 3rd Quarter, the due date for deposit was 20-01-2017. The amount deposited late was Rs. 1,00,000/- which was deposited on 18-02-2017 after a delay of 28 days. Penalty was imposed at 5%, amounting to Rs. 5,000/- corresponding to First Appeal No. 155/2025.

5(l). In Second Appeal No. 09/2026, relating to the 3rd Quarter, the due date for deposit was 20-01-2017. The amount deposited late was Rs. 2,00,000/- which was deposited on 05-02-2017 after a delay of 15 days. Penalty was imposed at 5%, amounting to Rs. 10,000/- corresponding to First Appeal No. 156/2025.

5(m). In Second Appeal No. 10/2026, relating to the 3rd Quarter, the due date for deposit was 20-01-2017. The amount deposited late was Rs. 6,00,000/- which was deposited on 02-02-2017 after a delay of 12 days. Penalty was imposed at 5%, amounting to Rs. 30,000/- corresponding to First Appeal No. 157/2025.

5(n). In Second Appeal No. 13/2026, relating to the 3rd Quarter, the due date for deposit was 20-01-2017. The amount deposited late was Rs. 7,64,516/- which was deposited on 26-02-2017 after a delay of 36 days. Penalty was imposed at 20%, amounting to Rs. 1,52,903/- corresponding to First Appeal No. 160/2025.

5(o). In Second Appeal No. 26/2026, relating to the 3rd Quarter, the due date for deposit was 20-01-2017. The amount deposited late was Rs. 51,403/- which was deposited on 28-02-2017 after a delay of 38 days. Penalty was imposed at 5%, amounting to Rs. 2,570/- corresponding to First Appeal No. 172/2025.

5(p). In Second Appeal No. 12/2026, relating to the 4th Quarter, the due date for deposit was 20-04-2017. The amount deposited late was Rs. 1,00,000/- which was deposited on 25-09-2017 after a delay of 158 days. Penalty was imposed at 20%, amounting to Rs. 20,000/- corresponding to First Appeal No. 159/2025.

5(q). In Second Appeal No. 14/2026, relating to the 4th Quarter, the due date for deposit was 20-04-2017. The amount deposited late was Rs. 1,70,000/- which was deposited on 12-09-2017 after a delay of 145 days. Penalty was imposed at 20%, amounting to Rs. 34,000/- corresponding to First Appeal No. 161/2025.

5(r). In Second Appeal No. 18/2026, relating to the 4th Quarter, the due date for deposit was 20-04-2017. The amount deposited late was Rs. 4,10,000/- which was deposited on 03-08-2017 after a delay of 104 days. Penalty was imposed at 20%, amounting to Rs. 82,000/- corresponding to First Appeal No. 165/2025.

5(s). In Second Appeal No. 23/2026, relating to the 4th Quarter, the due date for deposit was 20-04-2017. The amount deposited late was Rs. 2,10,000/- which was deposited on 25-09-2017 after a delay of 158 days. Penalty was imposed at 20%, amounting to Rs. 42,000/- corresponding to First Appeal No. 170/2025.

5(t). In Second Appeal No. 24/2026, relating to the 4th Quarter, the due date for deposit was 20-04-2017. The amount deposited late was Rs. 3,90,000/- which was deposited on 14-07-2017 after a delay of 84 days. Penalty was imposed at 20%, amounting to Rs. 78,000/- corresponding to First Appeal No. 171/2025.

5(u). In Second Appeal No. 25/2026, relating to the 4th Quarter, the due date for deposit was 20-04-2017. The amount deposited late was Rs. 1,10,000/- which was deposited on 16-07-2017 after a delay of 86 days. Penalty was imposed at 20%, amounting to Rs. 22,000/- corresponding to First Appeal No. 173/2025.

6. The above particulars reveal that the defaults were repeated throughout all four quarters of Financial Year 2016–17 and were not confined to a single or isolated lapse. The period of delay varied from 12 days in Second Appeal Nos. 10/2026 and 11/2026 to 158 days in Second Appeal Nos. 12/2026 and 23/2026, while Second Appeal No. 14/2026 involved a delay of 145 days. Penalty was levied at 5% wherever the delay fell within the lower statutory bracket and at 20% where the default attracted the higher statutory consequence. Since the respondent does not dispute the due dates, amounts deposited late, dates of deposit, or periods of delay, the controversy is narrowed to whether the respondent has established, by acceptable and tax period-wise material, “reasonable cause” for each delayed deposit within the meaning of Section 58(1)(vii)(a) of the Act.

Common Question Involved

7. The common question in all these twenty-one appeals is whether the respondent/dealer proved, by cogent and tax period-wise material, “reasonable cause” under Section 58(1)(vii)(a) of the Act for each delayed deposit of admitted tax. Since the fact of delay is not substantially disputed, the answer to this question will determine whether the First Appellate Authority rightly deleted the penalties or whether the penalty orders passed by the Assessing Authority are liable to be restored.

Submissions on Behalf of the Appellant/Department

8. The learned State Representative for the Department, referring to the particulars recorded in paragraph 5, submitted that the case discloses repeated defaults across all four quarters of Financial Year 2016–17 and not a single isolated lapse. In each appeal, the admitted tax was deposited after the statutory due date, with delays ranging from 12 to 158 days. It was therefore urged that Section 58(1)(vii)(a) stood attracted in each case, unless the respondent established reasonable cause separately for the concerned tax period. According to the Department, the First Appellate Authority erred in deleting all penalties on a general plea of hardship without undertaking the required tax period-wise examination.

9. The learned State Representative further submitted that Section 58(1)(vii)(a) applies where a dealer, without reasonable cause, fails to deposit tax due before or along with the return. The provision prescribes a graded penalty depending on the length of delay and the amount of tax involved. According to the Department, the Assessing Authority correctly applied this statutory scheme separately to each tax period, whereas the First Appellate Authority deleted all penalties by a common order without examining whether reasonable cause was established for each default. It was therefore urged that such blanket deletion, unsupported by separate findings or material evidence, is contrary to the plain mandate of Section 58(1)(vii)(a) of the Act.

10. The learned State Representative further contended that a general plea of hardship could not satisfy the statutory requirement of reasonable cause. The respondent was required to produce reliable, contemporaneous, and tax period-wise material showing that the alleged hardship directly prevented timely deposit on each due date. No bank statements, cash-flow details, account books, recovery particulars, debtor correspondence, or similar records were produced for this purpose. It was also submitted that the explanation failed to account for repeated defaults throughout the year, particularly the substantial fourth-quarter delays after the pleaded circumstance had ended. The Department therefore urged that the First Appellate Authority wrongly granted omnibus relief instead of testing reasonable cause separately for each default and advanced the following propositions:

(a) that in each of the twenty-one tax periods forming the subject matter of the present batch, the respondent admittedly failed to deposit the admitted tax within the time prescribed under the Act and the Rules framed thereunder;

(b) that the defaults were not confined to a single tax period or an isolated lapse but were repeated over the First, Second, Third, and Fourth Quarters, thereby disclosing a continuing pattern of non-compliance that could not be ignored unless reasonable cause was proved separately for each default;

(c) that the obligation to deposit admitted tax within the statutory period is mandatory in nature, and once such obligation is breached, the penal consequence under Section 58(1)(vii)(a) follows in accordance with the statutory scheme, subject only to the dealer establishing reasonable cause within the meaning of the provision.

(d) that the First Appellate Authority erred in law by granting blanket relief in all twenty-one appeals without recording any tax period-wise finding as to reasonable cause, particularly when the respondent had not produced cogent, contemporaneous, or corroborative material to substantiate the general plea of hardship.

11. On the basis of the above submissions, the learned State Representative prayed that the common order dated 23-09-2025 be set aside as being contrary to Section 58(1)(vii)(a) of the Act. It was submitted that the First Appellate Authority deleted the penalties without recording separate and reasoned findings on reasonable cause for each tax period and without any cogent supporting material. The Department accordingly sought allowance of all twenty-one second appeals and restoration of the penalty orders passed by the Assessing Authority for Assessment Year 2016–17.

Submissions on Behalf of the Respondent/Dealer

12. In reply, the learned counsel for the respondent/dealer supported the common appellate order and submitted that the delay in depositing admitted tax was neither wilful nor deliberate, nor intended to evade tax or withhold Government revenue. It was urged that the belated deposits occurred on account of temporary financial difficulty and disruption in business management caused by circumstances beyond the dealer's effective control. The respondent, it was submitted, never disputed the admitted tax liability and deposited the tax in instalments as funds became available. According to counsel, this conduct established bonafides and excluded any contumacious intent. It was therefore argued that, once the admitted tax had ultimately been deposited and the delay was attributable to genuine hardship, imposition of penalty would be harsh and inconsistent with the statutory protection of "reasonable cause" under Section 58(1)(vii)(a) of the Act.

13. Learned counsel for the respondent further elaborated on the factual basis of the plea of reasonable cause by submitting that the day-to-day affairs of the filling station were, during the relevant period, substantially looked after by the respondent's husband, Shri Sandeep Kumar. According to the respondent, Shri Sandeep Kumar managed the operational, financial, and transactional aspects of the business, including purchases, sales, recovery of outstanding dues, maintenance of accounts, and arrangement of funds for statutory deposits. It was submitted that Shri Sandeep Kumar was lodged in jail in connection with a

criminal case, which the respondent alleged to be false, and that he remained in jail from 26-04-2016 to 21-02-2017. The learned counsel urged that his sudden absence from the business created serious disruption in its normal functioning and adversely affected the respondent's ability to arrange funds and make timely deposits of the admitted tax. It was further submitted that the respondent, being a housewife and not previously involved in the active management of the business, was suddenly required to deal with credit sales, outstanding recoveries, business liabilities, accounts, and tax compliance without adequate experience or familiarity with the firm's affairs. In these circumstances, it was argued that the delay in the deposit of tax was a consequence of genuine business dislocation and financial difficulty and not a result of wilful neglect, deliberate default, or any intention to evade the payment of tax. Learned counsel also emphasized that, despite such adverse circumstances, the respondent continued to deposit tax in smaller instalments as and when funds became available, which, according to him, demonstrated the respondent's bonafides and supported the plea that the delay was occasioned by compelling circumstances beyond her effective control.

14. In support of the aforesaid submissions, the learned counsel for the respondent relied upon the settled principle that penalty provisions, though forming part of a fiscal statute, are not to be applied in a mechanical or automatic manner where the default is shown to be bonafide, unintentional, and

attributable to circumstances beyond the control of the dealer. It was urged that the existence of delay in filing returns or depositing tax, by itself, cannot be treated as conclusive proof of culpable conduct, particularly where the admitted tax liability has ultimately been discharged and the delay is explained on the basis of genuine financial hardship and disruption in the management of the business. Reliance was placed on the decision in M/s Bhushan Power and Steel Ltd. v. Assistant Excise and Taxation Commissioner-cum-Assessing Authority, Civil Revision No. 267 of 2017, decided on 06-01-2025, to contend that financial constraints and bonafide difficulty may, in appropriate cases, constitute a relevant circumstance while examining the imposition of a penalty. Learned counsel also relied upon the judgment of the Hon'ble Supreme Court in Hindustan Steel Ltd. v. State of Orissa [(1969) 2 SCC 627; (1970) 25 STC 211 (SC)] for the proposition that a penalty should not ordinarily be imposed merely because it is lawful to do so, and that where the breach is technical, venial, or flows from a bonafide belief or absence of deliberate defiance of law, the discretion relating to penalty must be exercised judiciously and with due regard to the facts of the case. On the strength of these authorities, it was submitted that the respondent’s conduct did not disclose any deliberate, contumacious, or dishonest intention to evade tax, and that the First Appellate Authority rightly appreciated the surrounding circumstances while setting aside the penalties.

Accordingly, it was prayed that the common appellate order be affirmed and the Department's second appeals be dismissed.

<u>Statutory Provisions</u>

15. The present dispute concerns penalties for delayed deposit of admitted tax and not the computation or assessment of tax liability. The legality of the appellate order must therefore be examined with reference to Section 58 of the Uttarakhand Value Added Tax Act, 2005 and, in particular, the requirement of "reasonable cause" under Section 58(1)(vii)(a).

16. Section 58(1)(vii)(a), as applicable after its amendment with effect from 31-03-2015, provides for penalty where a dealer, without reasonable cause, fails to deposit tax due before furnishing the return or along with it. Since the defaults in these appeals relate only to delayed payment of admitted tax, the relevant portion of the provision is reproduced below:-

> *"(vii) has, without any reasonable cause, failed —*
>
> *(a) to deposit the tax due under the Act before furnishing the return or along with the return —*
>
> *(i) A sum equal to five percent of such tax, if the delay in depositing such tax is not more than one month;*
>
> *(ii) a sum which shall not be less than ten percent and not more than twenty percent of such tax, if the delay in depositing such tax is more*

than one month and the amount of such tax is up to twenty thousand rupees; and

(iii) a sum which shall not be less than twenty percent and not more than thirty percent of such tax, if the delay in depositing such tax is more than one month and the amount of such tax is more than twenty thousand rupees."

17. A plain reading of Section 58(1)(vii)(a) shows that delayed deposit of admitted tax attracts penalty unless the dealer proves reasonable cause. Mensrea or intent to evade tax is not required. Once delay is established, the burden lies on the dealer to explain it, as the relevant facts are within the dealer's special knowledge. The provision adopts a graded penalty structure based on the length of delay and the amount of tax involved. Thus, timely deposit of admitted tax is a strict fiscal obligation, and reasonable cause is the only statutory ground for avoiding penalty.

<u>Points for Determination</u>

18. In view of the facts, rival submissions, statutory provision, and tax period-wise material on record, the following points arise for determination:

(1) Whether, on the facts and material available on record, the respondent/dealer has established that the delay in depositing admitted tax for each of the relevant tax periods falling in Assessment Year

2016–17 was occasioned by “reasonable cause” within the meaning of Section 58(1)(vii)(a) of the Act.

(2) Whether the First Appellate Authority was legally justified in setting aside, by a common order, the penalties imposed by the Assessing Authority under Section 58(1)(vii)(a) of the Act in respect of the twenty-one tax periods in question, without recording tax period-wise findings on reasonable cause;

(3) Whether, upon adjudication of the aforesaid issues, the penalty orders passed by the Assessing Authority in accordance with Section 58(1)(vii)(a) of the Act are liable to be restored in the present second appeals filed by the Department.

Discussion and Findings

19. The Tribunal has considered the rival submissions and examined the record, including the tax period-wise particulars in paragraph 5, the penalty order dated 01-12-2022, and the appellate order dated 23-09-2025. Since the delayed deposit of admitted tax is not disputed in any of the twenty-one appeals, the issue is confined to whether the respondent proved “reasonable cause” under Section 58(1)(vii)(a) for each default and whether the First Appellate Authority could delete all penalties without a separate period-wise examination.

20. The Act does not define "reasonable cause"; it must therefore be assessed practically, in light of the purpose of the penalty provision. Mere hardship, financial difficulty, absence of dishonest intention, or eventual payment is not enough. The cause must be bonafide, substantial, and directly connected with the particular delay, showing that timely deposit was not reasonably possible despite ordinary care and diligence. Since the relevant facts lie within the dealer's knowledge, the burden is on the dealer to prove reasonable cause by cogent, credible, and preferably contemporaneous material for each due date, amount, deposit date, and period of delay.

21. Applying the above standard, the respondent's explanation does not correspond with the tax period-wise pattern of defaults. The main plea is that Shri Sandeep Kumar, who allegedly managed the business, remained in jail from 26-04-2016 to 21-02-2017, causing disruption in business affairs. Even if this plea is considered, it does not explain the fourth-quarter defaults, whose due date was 20-04-2017, almost two months after his release. The longest delays occurred in that quarter—158 days in Second Appeal Nos. 12/2026 and 23/2026, 145 days in Second Appeal No. 14/2026, 104 days in Second Appeal No. 18/2026, and 84 and 86 days in Second Appeal Nos. 24/2026 and 25/2026. No material shows that the alleged disruption continued beyond 21-02-2017 or prevented timely deposit on 20-04-2017. The jail-based explanation therefore fails to justify the fourth-quarter defaults and weakens the respondent's case.

22. The plea is also unproved for the First, Second, and Third Quarters, though they wholly or partly coincided with the alleged jail period. The respondent had to establish a direct link between the alleged disruption and the inability to deposit tax on each due date. No bank statements, cash-flow details, ledgers, recovery particulars, debtor or creditor correspondence, or other contemporaneous records were produced. The explanation does not show what funds were available, why the specific amounts could not be deposited on time, or why the delays continued for the recorded periods. Mere eventual payment does not prove that timely compliance was not reasonably possible. In the absence of reliable tax period-wise evidence, reasonable cause is not established.

23. The plea that the respondent was a housewife unfamiliar with the business also does not establish reasonable cause. The statutory obligation to deposit admitted tax rests on the registered dealer and is not displaced because the business was managed by a spouse, family member, or employee. No material shows that the respondent promptly secured the accounts, arranged funds, obtained professional assistance, approached the Department, or took effective steps to ensure timely compliance. At best, the plea shows internal management difficulty; it does not prove an unavoidable circumstance preventing each delayed deposit.

24. In the light of above noted circumstances only the reliance on the judgment of Hon'ble Supreme Court Hindustan Steel Ltd. v. State of Orissa [(1969) 2 SCC 627; (1970) 25 STC 211 (SC)] does not assist the respondent. That Hon'ble Supreme Court decision cautions against mechanical imposition of penalty where the breach is technical, venial, or founded on a bonafide belief. It does not dispense with the statutory requirement of proving reasonable cause. Here, the defaults were repeated, substantial fourth-quarter delays occurred after the alleged jail period ended, and no tax period-wise supporting records were produced.

25. The same principle is reflected in the Hon'ble Supreme Court judgments - Union of India v. Dharmendra Textile Processors [(2008) 13 SCC 369], Chairman, SEBI v. Shriram Mutual Fund [(2006) 5 SCC 361], and Gujarat Travancore Agency v. Commissioner of Income Tax [(1989) 177 ITR 455 (SC)]. In these judgments Hon'ble Supreme Court hold that, where a fiscal statute creates civil liability for breach of a statutory obligation, penalty may follow from the objective fact of default and mensrea is not ordinarily necessary unless the statute provides otherwise. Under Section 58(1)(vii)(a), therefore, the relevant inquiry is not whether the respondent intended to evade tax, but whether reasonable cause was proved for each delayed deposit. As held above, that burden has not been discharged.

26. The plea that the penalties are harsh or disproportionate is without merit. Section 58(1)(vii)(a) itself provides a graded penalty structure based on the length of delay and the amount of tax involved. The Assessing Authority applied 5% where the lower bracket was attracted and 20% where the higher consequence applied. No error is shown in the calculation of delay, amount of tax, or applicable rate, nor was the maximum rate of 30% imposed. Once reasonable cause is not proved, penalties imposed within the statutory range cannot be set aside merely on a general plea of hardship or proportionality.

27. The Tribunal therefore holds that the respondent failed to prove “reasonable cause” under Section 58(1)(vii)(a) for any of the twenty-one delayed deposits.

28. Point No. (1) is answered against the respondent/dealer and in favour of the appellant/Department. The respondent failed to prove, by cogent, contemporaneous, credible, and tax period-wise material, that any of the twenty-one delayed deposits was supported by “reasonable cause” under Section 58(1)(vii)(a) of the Act.

29. Point No. (2) is answered in favour of the appellant/Department. The First Appellate Authority was not justified in deleting the penalties by a common order without the period-wise inquiry required under Section 58(1)(vii)(a). Once delay was admitted and reasonable cause was not proved for each default, penalties could not be deleted on a general plea of hardship, business disruption, or absence of intent to evade tax. As the appellate order dated 23-09-2025

contains no separate findings on the due date, amount, deposit date, delay, or evidence relating to each default, it misapplies the statutory test and is legally unsustainable.

30. Point No. (3) is also answered in favour of the appellant/Department. Since the respondent failed to prove reasonable cause and the appellate deletion of penalties is unsustainable and liable to set aside and , the penalty orders passed by the Assessing Authority dated- 01-12-2022 are liable to be restored. The penalties were imposed with reference to the tax period-wise particulars in paragraph 5 and within the statutory limits prescribed under Section 58(1)(vii)(a). No error is shown in the delay, tax amount, applicable rate, or calculation.

Order

31. In view of the findings recorded above, , Second Appeal Nos. 07/2026, 08/2026, 09/2026, 10/2026, 11/2026, 12/2026, 13/2026, 14/2026, 15/2026, 16/2026, 18/2026, 19/2026, 20/2026, 21/2026, 22/2026, 23/2026, 24/2026, 25/2026, 26/2026, 27/2026, and 28/2026 are allowed and the common order dated 23-09-2025 passed by the Joint Commissioner (Appeals), Dehradun, insofar as it concerns these twenty-one second appeals, is set aside. And the penalty orders passed by the Assessing Authority under Section 58(1)(vii)(a) dated 01-12-2022 are restored accordingly.

32. Let a copy of this common judgment be placed on the record of each connected second appeal for compliance and consequential action according to law.

S/D 09-7-2026
(Rakesh Verma)
Member
Commercial Tax Tribunal,
Uttarakhand

S/D 09-7-2026
(Gurubaksh Singh)
Chairman
Commercial Tax Tribunal,
Uttarakhand

Date: 09-07-2026

Place: Dehradun