IN THE COMMERCIAL TAX TRIBUNAL, UTTARAKHAND, DEHRADUN

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

1- Second Appeal No. 24 of 2025 of A.Y. 2017–18
(Under Section 25(7)read with Section 29(4))
of the Uttarakhand Value Added Tax Act, 2005

Commissioner, State Tax
Uttarakhand, Dehradun
… Appellant/Department
Versus
M/s Manmohan Store, Kotdwar, Uttarakhand
… Respondent/Dealer

2- Second Appeal No. 25 of 2025 of A.Y. 2017–18
(Under Section 25(7) read with Section 29(4))
of the Uttarakhand Value Added Tax Act, 2005

Commissioner, State Tax
Uttarakhand, Dehradun
… Appellant/Department
Versus
M/s Haryana Auto Traders, Kotdwar, Uttarakhand
… Respondent/Dealer

3- Second Appeal No. 26of 2025 of A.Y. 2017–18
(Under Section 25(7)read with Section 29(4))
of the Uttarakhand Value Added Tax Act, 2005

Commissioner, State Tax
Uttarakhand, Dehradun
… Appellant/Department
Versus
M/s Anil Kumar Sunil Kumar, Kotdwar, Uttarakhand
… Respondent/Dealer

For the Appellant: Shri Bhuwan Chandra Pandey, Deputy Commissioner, State Tax and State Representative
For the Respondent: Shri Ruchin Singhal, Ld. Advocate

JUDGMENT

Rakesh Verma (Member):

INTRODUCTION

1. These connected second appeals are being disposed of by this common judgment, as they arise from substantially similar facts, involve an identical question of law, and concern the reversal of Input Tax Credit claimed under the Uttarakhand Value Added Tax Act, 2005 in respect of goods lying in closing stock as on 30.06.2017, immediately prior to the implementation of the Goods and Services Tax regime. For the sake of convenience, and unless the context otherwise requires, the respondents in these appeals are hereinafter referred to collectively as the respondent-dealers.

2. The Department has preferred Second Appeal Nos. 24 of 2025, 25 of 2025 and 26 of 2025, all relating to assessment year 2017–18, against the orders dated 10.01.2025 passed by the learned Appellate Authority, whereby the demands raised by the Assessing Authority on account of reversal of Input Tax Credit were set aside. The principal grievance of the Department is that Input Tax Credit relatable to goods lying in closing stock as on 30.06.2017 was not admissible after repeal of the Uttarakhand Value Added Tax Act, 2005 and the consequential implementation of the Goods and Services Tax regime.

FACTS OF THE CASE

3. The respondent-dealers were registered under the Uttarakhand Value Added Tax Act, 2005. In Second Appeal No. 24 of 2025, the respondent-dealer, M/s Manmohan Store, Cinema Road, Kotdwar, was registered with the Commercial

Tax Department under TIN 05006483980 with effect from 01.04.1980 and was engaged in the purchase and sale of kirana and general merchandise goods. The dealer purchased goods both from within and outside the State of Uttarakhand. In respect of taxable purchases made from registered dealers within the State, the dealer claimed Input Tax Credit and adjusted the same against its output tax liability. The books of account were accepted during assessment proceedings. For the first quarter of assessment year 2017–18, prior to the implementation of GST with effect from 01.07.2017, the dealer disclosed sales of Rs.18,80,200/- and purchases of Rs.12,47,045.27/- Out of the said purchases, purchases from registered dealers within the State amounted to Rs.4,52,236/- on which Input Tax Credit of Rs.81,801.45/- was claimed. The dispute is confined to the treatment of Input Tax Credit pertaining to goods lying in closing stock valued at Rs.3,21,400/- as on 30.06.2017. The assessment record further shows that, after obtaining permission under Section 29(4) of the VAT Act, 2005, the proceedings were reopened and a reassessment order dated 27.06.2024 was passed under Section 25(7) read with Section 29(4) of the Uttarakhand Value Added Tax Act, 2005, limited to the aforesaid issue. By the said reassessment order, Input Tax Credit of Rs.46,603/- relatable to goods remaining in stock as on 30.06.2017, was disallowed and a consequential tax demand of Rs.46,598 /- was created.

4. In Second Appeal No. 25 of 2025, the respondent-dealer, M/s Haryana Auto Traders, Kotdwar, was registered with the State Tax Department under TIN

05002817778 with effect from 30.12.2001 and was engaged in the purchase and sale of auto parts and lubricants. The dealer purchased goods both from within and outside the State of Uttarakhand. In respect of taxable purchases made from registered dealers within the State, the dealer claimed Input Tax Credit and adjusted the same against its output tax liability. The books of account were accepted during assessment proceedings. For the first quarter of assessment year 2017–18, prior to the implementation of GST with effect from 01.07.2017, the dealer disclosed sales of Rs.11,94,495/- and purchases of Rs.5,93,681.26/- Out of the said purchases, purchases from registered dealers within the State amounted to Rs.2,86,959.26/- on which Input Tax Credit of Rs.29,989.90/- was claimed. The dispute is confined to the treatment of Input Tax Credit pertaining to goods lying in closing stock valued at Rs.43,79,360/- as on 30.06.2017. The assessment record further shows that, after obtaining permission under Section 29(4) of the VAT Act, 2005, the proceedings were reopened and a reassessment order dated 27.06.2024 was passed under Section 25(7) read with Section 29(4) of the Uttarakhand Value Added Tax Act, 2005, limited to the aforesaid issue. By the said reassessment order, Input Tax Credit of Rs.4,54,934/- relatable to goods remaining in stock as on 30.06.2017, was disallowed and a consequential tax demand of Rs.4,54,933/- was created.

5. In Second Appeal No. 26 of 2025, the respondent-dealer, M/s Anil Kumar Sunil Kumar, Kotdwar, was registered with the Commercial Tax Department under TIN 05002768502 with effect from 01.04.2005 and was engaged in the purchase and sale of kirana and general merchandise goods. The dealer purchased goods both from within and outside the State of Uttarakhand. In respect of taxable purchases made from registered dealers within the State, the dealer claimed Input Tax Credit and adjusted the same against its output tax liability. The books of account were accepted during assessment proceedings. For the first quarter of assessment year 2017–18, prior to the implementation of GST with effect from 01.07.2017, the dealer disclosed sales of Rs.33,79,180/- and purchases of Rs.23,65,895.02/- Out of the said purchases, purchases from registered dealers within the State amounted to Rs.17,68,042.45/- on which Input Tax Credit of Rs.1,29,339.88/- was claimed. The dispute is confined to the treatment of Input Tax Credit pertaining to goods lying in closing stock valued at Rs.21,86,965/- as on 30.06.2017. The assessment record further shows that, after obtaining permission under Section 29(4) of the VAT Act, 2005, the proceedings were reopened and a reassessment order dated 27.06.2024 was passed under Section 25(7) read with Section 29(4) of the Uttarakhand Value Added Tax Act, 2005, limited to the aforesaid issue. By the said reassessment order, Input Tax Credit of Rs.93,878.49/- relatable to goods remaining in stock as on 30.06.2017, was disallowed and a consequential tax demand of Rs.93,878/- was created.

6. In the reassessment orders dated 27.06.2024, the Assessing Authority recorded that, after implementation of the GST regime with effect from

01.07.2017, the respondent-dealers opted for the composition scheme under GST. The Department took the view that where a dealer held taxable goods relating to the VAT period in closing stock as on 30.06.2017 and thereafter opted for the composition scheme under GST, the Input Tax Credit relatable to such stock was required to be reversed by furnishing Form GST ITC-03. Proceeding on that basis, and also relying upon the repeal of the Uttarakhand Value Added Tax Act, 2005 with effect from 01.07.2017, the Assessing Authority reversed the Input Tax Credit relatable to the closing stock and raised consequential demands against the respondent-dealers.

7. Aggrieved by the reassessment orders, the respondent-dealers preferred first appeals before the learned Appellate Authority. By orders dated 10.01.2025, the learned Appellate Authority allowed the appeals and set aside the demands raised by the Assessing Authority. Being dissatisfied with the said orders, the Department has preferred the present second appeals before this Tribunal.

SUBMISSIONS OF THE APPELLANT-DEPARTMENT

8. In Second Appeal Nos. 24of 2025, 25of 2025 and 26 of 2025, learned State Representative appearing for the appellant-Department submitted that the learned Appellate Authority committed an error in setting aside the demands raised by the Assessing Authority. It was contended that, in each of the second appeals, the Input Tax Credit relatable to goods lying in closing stock as on 30.06.2017 could not have been permitted to remain available to the respondent-dealers after repeal of the Uttarakhand Value Added Tax Act, 2005 and implementation of the GST regime with effect from 01.07.2017.

9. It was further submitted on behalf of the appellant-Department that the respondent-dealers, having opted for the composition scheme under the GST regime after 01.07.2017, were required to reverse the Input Tax Credit relatable to goods lying in closing stock as on 30.06.2017 by furnishing Form GST ITC-03. According to the Department, failure to reverse such credit resulted in an undue benefit to the respondent-dealers, as the credit had been availed under the VAT regime, but the goods were thereafter carried into the GST regime under composition levy.

10. Learned State Representative further placed reliance upon Section 6(8)(e) of the Uttarakhand Value Added Tax Act, 2005 and submitted that Input Tax Credit is not allowable in respect of goods remaining unsold in stock where the business is closed, the registration is cancelled, or the dealer ceases to be taxable under the Act. It was urged that, in the present second appeals, the repeal of the VAT regime and the migration of the respondent-dealers to the GST regime had the effect of bringing their liability under the VAT Act to an end. On that premise, it was contended that the Assessing Authority was justified in reversing the Input Tax Credit relatable to the closing stock as on 30.06.2017 and in raising the consequential demands.

SUBMISSIONS OF THE RESPONDENT-DEALER

11. Per contra, learned counsel for the respondent-dealers submitted, with specific reference to the facts recorded in paragraphs 3 to 5, that in Second Appeal No. 24 of 2025 relating to M/s Manmohan Store, Second Appeal No. 25 of 2025 relating to M/s Haryana Auto Traders, and Second Appeal No. 26 of 2025 relating to M/s Anil Kumar Sunil Kumar, the purchases on which Input Tax Credit was claimed were made from registered dealers within the State of Uttarakhand after payment of due tax. It was further submitted that, in all three appeals, the books of account were accepted during assessment proceedings, and neither the genuineness of the purchases nor the payment of tax thereon was disputed by the Assessing Authority.

12. It was further submitted on behalf of the respondent-dealers that, under Sections 5, 6(1) and 6(3) of the Uttarakhand Value Added Tax Act, 2005, Input Tax Credit is admissible to a registered dealer on eligible tax-paid purchases made from registered dealers within the State, subject only to the restrictions expressly provided under the Act. The VAT Act does not contain any provision requiring reversal of such Input Tax Credit merely because the goods remained unsold as on 30.06.2017. Reliance was placed upon Section 6(8)(e) of the VAT Act to contend that denial of credit in respect of unsold stock is attracted only where the goods remain in stock at the time of closure of business due to discontinuance by the dealer, cancellation of registration, or the dealer being declared non-taxable under the Act. According to learned counsel, the respondent-dealers continued their business after 01.07.2017 and the goods in stock were carried forward into the GST regime. It was submitted that the GSTINs were issued on the basis of the Permanent Account Numbers of the respective dealers and were in continuation of the provisional GSTINs allotted by the Department. In the case of M/s Manmohan Store, although the provisional ID could not be converted into a regular GSTIN due to a technical glitch and a separate GSTIN was subsequently issued, the business was never closed or discontinued. Therefore, none of the contingencies contemplated under Section 6(8)(e) stood satisfied. It was also submitted that any obligation to reverse credit upon opting for composition under GST, including the obligation under Section 18(4) of the State Goods and Services Tax Act, 2017 read with Rule 44 of the State Goods and Services Tax Rules, 2017 and furnishing of Form GST ITC-03, belongs exclusively to the GST statutory framework and cannot be imported into VAT reassessment proceedings in the absence of an enabling provision under the VAT Act. Lastly, it was urged that the Department itself migrated only those taxpayers to the GST regime who were active as on 30.06.2017 and, in such circumstances, its assertion that the respondent-dealers had discontinued business is self-contradictory and cannot form the basis for reversal of Input Tax Credit under the VAT Act.

13. Learned counsel for the respondent-dealers further submitted that the demands impugned in the present second appeals were created without any valid statutory basis under the Uttarakhand Value Added Tax Act, 2005 and without satisfaction of the conditions required for reversal or denial of Input

Tax Credit. It was argued that the learned Appellate Authority rightly held that the Input Tax Credit lawfully availed by the respondent-dealers could not be reversed merely on account of closing stock as on 30.06.2017 or on the basis of obligations, if any, arising under the GST law. On these submissions, learned counsel prayed that Second Appeal Nos. 24 of 2025, 25 of 2025 and 26 of 2025, filed by the Department, be dismissed and the orders passed by the learned Appellate Authority be affirmed.

STATUTORY PROVISIONS

14. The controversy turns on the distinction between the Uttarakhand Value Added Tax Act, 2005 and the GST law introduced from 01.07.2017. The VAT Act governs the accrual, allowance and restriction of Input Tax Credit during the VAT regime, while the SGST Act and Rules govern reversal of GST credit after migration. The issue must therefore be examined by keeping the two statutory fields separate.

15. Section 5 of the Uttarakhand Value Added Tax Act, 2005 provides for determination of a dealer's net tax liability for a tax period. It requires output tax and purchase tax, wherever applicable, to be reduced by the admissible Input Tax Credit, subject to Section 6. Thus, Input Tax Credit forms part of the statutory computation of net tax liability under the VAT Act.

16. Section 6 of the VAT Act specifically governs Input Tax Credit. It allows such credit only to a registered dealer for computing net tax payable, and permits credit on eligible purchases from registered dealers within the State, subject to the Act's conditions and restrictions. The entitlement therefore arises from eligible tax-paid business purchases and is controlled only by the limitations expressly provided in the VAT Act.

17. Section 6(8)(e), relied upon by the Department, denies Input Tax Credit on unsold stock only where business is closed due to discontinuance, registration is cancelled, or the dealer is declared non-taxable under the VAT Act. It applies only on the occurrence of these specified contingencies and does not confer a general power to reverse credit merely because goods remain unsold or form part of closing stock on a particular date.

18. Section 25(7) read with Section 29(4) of the VAT Act provides the jurisdictional framework for reassessment. Section 25(7) permits reassessment where turnover has escaped assessment, tax is under-assessed, or any deduction, exemption or Input Tax Credit has been wrongly allowed, while Section 29(4) requires prior sanction for reopening. These provisions are procedural; even after valid reopening, denial or reversal of Input Tax Credit must rest on a substantive provision of the VAT Act.

19. Section 10 of the State Goods and Services Tax Act, 2017 permits eligible registered persons to pay tax under the composition scheme. Section 18(4) provides that when a person who has availed input tax credit opts for Section 10, or when supplies become wholly exempt, the credit attributable to stock, semi-finished or finished goods, and capital goods must be paid through the electronic credit or cash ledger, after which any remaining credit lapses.

20. Rule 44 of the State Goods and Services Tax Rules, 2017 prescribes the manner in which the amount payable under Section 18(4) is to be determined. It provides for proportional computation of credit relatable to inputs held in stock and inputs contained in semi-finished or finished goods, and for pro-rata computation in respect of capital goods on the basis of their remaining useful life. The amount so determined forms part of the output tax liability, and where it arises under Section 18(4), the details are required to be furnished in Form GST ITC-03. These provisions operate within the GST framework, by reference to GST input tax credit and the GST electronic ledgers. They do not, by their own force, confer power upon the VAT Assessing Authority to reverse Input Tax Credit already availed under the repealed VAT Act unless such power is traceable to the VAT Act itself.

POINT FOR DETERMINATION

21. The principal issue is whether Input Tax Credit validly availed under the VAT Act on eligible purchases made before 01.07.2017 could be denied or reversed merely because the goods remained in closing stock on 30.06.2017 and the respondent-dealers later opted for composition under GST. It must also be determined whether any GST obligation relating to Form GST ITC-03 or reversal of credit can independently justify reversal of VAT Input Tax Credit in proceedings under Section 25(7) read with Section 29(4) of the VAT Act.

DISCUSSION AND FINDINGS

22. We have heard the learned State Representative for the appellant-Department and learned counsel for the respondent-dealers, and have perused the records of Second Appeal Nos. 24 of 2025, 25 of 2025 and 26 of 2025. The facts material for deciding these appeals are substantially undisputed. The respondent-dealers were registered under the Uttarakhand Value Added Tax Act, 2005, had made taxable purchases from registered dealers within the State, and had claimed Input Tax Credit on such tax-paid purchases in the ordinary course of business. Their books of account were accepted in assessment, and the Assessing Authority has not recorded any finding disputing either the genuineness of the purchases, the payment of tax thereon, or the eligibility of the purchases at the time when the credit was originally availed. The controversy is therefore a narrow one: whether such credit could subsequently be reversed only because the goods formed part of closing stock as on 30.06.2017 and the respondent-dealers thereafter opted for composition levy under the GST regime.

23. The Department has also placed considerable emphasis on the fact that, after 01.07.2017, the respondent-dealers opted for the composition scheme under the GST law and were, according to the Department, required to reverse credit by furnishing Form GST ITC-03. This submission does not assist the Department in the present VAT reassessment proceedings. The obligation contemplated by Section 18(4) of the SGST Act read with Rule 44 of the SGST Rules, if otherwise attracted, is an obligation created by the GST law and is to be enforced within the GST statutory framework. It relates to input tax credit under the GST regime and to the mechanism provided in that law, including the electronic credit ledger and the prescribed GST forms. It does not, by its own force, authorise the VAT Assessing Authority, while exercising powers under Section 25(7) read with Section 29(4) of the VAT Act, to reopen and reverse Input Tax Credit which had been availed under the VAT Act prior to 01.07.2017.

24. The Department has invoked Section 6(8)(e) of the VAT Act. That provision, however, is not a residuary power to deny credit in respect of every item of unsold stock. It applies only when goods remain unsold in stock at the time of closure of business due to discontinuance by the dealer, cancellation of registration, or the dealer being declared non-taxable under the Act. These statutory conditions are specific and must be strictly proved before the consequence of denial of Input Tax Credit can follow. They cannot be expanded by implication so as to include every case of migration from the VAT regime to the GST regime, or every case where goods were lying in stock on the date immediately preceding implementation of GST.

25. On the facts of the present appeals, no material has been brought on record to show that the respondent-dealers had closed or discontinued their business, that their registrations were cancelled on account of such closure, or that they were declared non-taxable under the VAT Act. On the contrary, the basis of the Department's own case is that the respondent-dealers continued their business after 01.07.2017 and opted for composition under the GST law. Continuance of business under the succeeding GST regime cannot be equated with discontinuance of business under Section 6(8)(e) of the VAT Act. In the absence of the factual foundation required by that provision, the Assessing Authority was not justified in invoking Section 6(8)(e) for reversing Input Tax Credit merely because goods remained in closing stock as on 30.06.2017.

26. The two fiscal enactments must therefore be applied in their respective fields. A liability, restriction, or procedural requirement arising under one taxing statute cannot be imported into another taxing statute in the absence of express legislative authority. If the Department was of the view that the respondent-dealers had not complied with any requirement under the GST law relating to composition levy, reversal of credit, or filing of Form GST ITC-03, the appropriate course was to proceed under the GST law before the authority competent under that enactment. Such alleged GST non-compliance could not be converted into a ground for reversal of VAT Input Tax Credit, particularly when no provision of the VAT Act has been shown to have been violated by the respondent-dealers.

27. Nor does the repeal of the Uttarakhand Value Added Tax Act, 2005 upon introduction of the GST regime, by itself, authorise reversal of Input Tax Credit lawfully availed under the VAT Act. Accrued rights and liabilities under a repealed fiscal statute must be examined with reference to that statute and the applicable saving provisions. Once the purchases were accepted as genuine and tax-paid, and once the respondent-dealers had satisfied the statutory conditions for availing Input Tax Credit under Sections 5 and 6 of the VAT Act, such credit could be denied or reversed only under an express provision of that Act. No such provision has been shown which authorises reversal merely because the goods were lying in closing stock as on 30.06.2017, because the dealers migrated to the GST regime, or because they subsequently opted for composition levy under GST. The reassessment orders, to that extent, travelled beyond the authority conferred by the VAT Act and cannot be sustained.

28. The point for determination is accordingly answered in the negative and against the Department. Input Tax Credit validly availed under the Uttarakhand Value Added Tax Act, 2005 could not be reversed merely because the goods remained in closing stock as on 30.06.2017 or because the respondent-dealers thereafter migrated to the GST regime and opted for composition levy. In the absence of any express provision under the VAT Act authorising such reversal, the reassessment orders could not be sustained on this ground.

29. Section 6(8)(e) of the VAT Act is not attracted to the facts of the present cases. The respondent-dealers were not shown to have closed or discontinued their business, their registrations were not shown to have been cancelled on account of such closure, and they were not declared non-taxable under the VAT Act. Their continuation under the GST regime, including by opting for composition levy, cannot be equated with discontinuance of business for the purposes of Section 6(8)(e).

30. Likewise, any obligation arising under the GST law in relation to Form GST ITC-03 or reversal of credit under Section 18(4) of the SGST Act read with Rule 44 of the SGST Rules was required to be examined, if at all, within the GST statutory framework. Such obligation could not confer jurisdiction upon the VAT Assessing Authority to reverse VAT Input Tax Credit in reassessment proceedings under Section 25(7) read with Section 29(4) of the VAT Act. The learned Appellate Authority was therefore justified in setting aside the demands, and this Tribunal finds no illegality, perversity or infirmity in the orders impugned before it.

ORDER

31. In view of the discussion and findings recorded hereinabove, Second Appeal Nos. 24 of 2025, 25 of 2025 and 26 of 2025, preferred by the Department, are hereby dismissed. The orders dated 10.01.2025 passed by the learned Appellate Authority are affirmed. Let a copy of this common judgment be placed on the record of each connected second appeal for compliance and consequential action in accordance with law.

S/D....................... **(Rakesh Verma)** **Member,** **Commercial Tax Tribunal,** **Uttarakhand,Dehradun**

S/D.25-07-2026 **(Gurubaksh Singh)** **Chairman,** **Commercial Tax Tribunal,** **Uttarakhand, Dehradun**

Date: 25-07-2026
Place: Dehradun.