

**THE COMMERCIAL TAX TRIBUNAL, UTTARAKHAND
(Single Member Bench) HALDWANI**

Present:

Hon'ble Shri Rakesh Verma, Member

Second Appeal No. 124 of 2025 (A.Y. 2013-14)

(Under Section 53 of the Uttarakhand Value Added Tax Act, 2005, arising out
of proceedings under Section 25(7) of the Act)

M/s Devrishi Papers Pvt. Ltd., Kashipur Road, Jaspur

... Appellant/Dealer

Versus

Commissioner, State Tax, Uttarakhand

... Respondent/Department

For the Dealer: Shri Rakesh Kumar Agarwal, Ld. Advocate

For the Department: Shri Kamal Kishore Joshi, Assistant Commissioner,
State Tax and State Representative

JUDGMENT

(Per: Shri Rakesh Verma, Member)

I. INTRODUCTION

1. This second appeal has been filed by M/s Devrishi Papers Pvt. Ltd., Kashipur Road, Jaspur ("the dealer"), under Section 53 of the Uttarakhand Value Added Tax Act, 2005 ("the Act"), against the order dated 02.06.2025 passed by the Ld. Joint Commissioner (Appeal), State Tax, Haldwani in First Appeal No. 467 of 2022 for Assessment Year 2013-14. By the said order, the First Appellate Authority affirmed the assessment order dated 29.04.2017

passed under Section 25(7) of the Act, to the extent it disallowed input tax credit claimed by the dealer.

2. The original controversy related to the disallowance of ITC of Rs. 65,994/-, which was made by the Assessing Authority and confirmed in appeal on the ground that the corresponding purchases could not be verified from the records of the selling dealers. During the second appeal proceedings, however, the Department verified the ITC relating to purchases from M/s Captain Organic. Consequently, the controversy now survives only in respect of the balance ITC of Rs. 13,648/- relating to M/s Ansari Traders. The question for determination is whether such remaining disallowance is sustainable in law and on the facts of the case.

II. FACTS OF THE CASE

3. The dealer is engaged in the manufacture and sale of craft paper. For Assessment Year, 2013-14, it produced its books of account, audited balance sheet, and purchase and sale details before the Assessing Authority. The trading results were substantially accepted, and the books of account were not rejected; nor was any finding recorded that the dealer's business activity was bogus, fictitious, or otherwise not genuine.
4. During the assessment proceedings under Section 25(7) of the Act, the dealer claimed total input tax credit of Rs. 35,51,435/-. By assessment order dated

29.04.2017, the Assessing Authority allowed ITC of Rs. 34,85,441/- and disallowed the balance ITC of Rs. 65,994/-. The disallowance was confined to purchases claimed to have been made from two selling dealers registered at Kashipur, namely M/s Captain Organic and M/s Ansari Traders.

5. The stated reason for the disallowance was that the corresponding purchases could not be verified from the records of the selling dealers. The Assessing Authority relied upon verification reports received from the jurisdictional circles of those selling dealers and, treating such reports as sufficient, held the corresponding ITC claim to be inadmissible.
6. The dealer challenged the assessment order by filing First Appeal No. 467 of 2022 before the Ld. Joint Commissioner (Appeal), State Tax, Haldwani. By order dated 02.06.2025, the First Appellate Authority dismissed the appeal and affirmed the ITC disallowance, observing in substance that the Assessing Authority had rightly acted upon the non-verification reports received from the concerned jurisdictional circles.
7. The dealer has therefore preferred the present Second Appeal No. 124 of 2025 against the appellate order dated 02.06.2025. At the time of hearing of the second appeal, the State Representative submitted that the previously unverified ITC relating to M/s Captain Organic had since been verified by the Department. In view of the said verification, the dispute now survives

only to the extent of Rs. 13,648/- relating to M/s Ansari Traders, and not Rs. 65,994/-.

III. SUBMISSIONS OF THE APPELLANT/DEALER

8. Shri Rakesh Kumar Agarwal, Ld. Advocate appearing for the dealer, assailed the disallowance of input tax credit as being contrary to the record, the scheme of the Act, the principles of natural justice, and the law explained by the Hon'ble Supreme Court in Commissioner, Trade and Tax, Delhi v. M/s Shanti Kiran India (P) Ltd., Civil Appeal Nos. 2042-2047 of 2015 with Civil Appeal No. 9902 of 2017, order dated 09.10.2025. His submissions, in substance, are recorded hereinafter.
9. It was submitted that the disputed ITC relates to regular business purchases made from two selling dealers situated at Kashipur, namely M/s Captain Organic and M/s Ansari Traders, both of whom were duly registered with the Commercial Tax Department and possessed valid TINs at the relevant time. The aggregate purchase value involved was Rs. 26,85,426/-, and the corresponding ITC/VAT disallowed by the Assessing Authority was Rs. 65,994/-.
10. As regards M/s Captain Organic, Ramnagar Road, Kashipur, TIN 05007624 6516, the dealer had purchased goods aggregating Rs. 25,84,326/-, on which ITC/VAT of Rs. 52,346/- was claimed. The purchases were

supported by tax invoices and were made against Form 11 issued for concessional rate of tax. The entire payment was routed through the dealer's Canara Bank Cash Credit account No. 2795261000122. The disallowance was nevertheless made only on the basis of letter No. 1130 dated 07.03.2017 issued by the ACCT, Khand-2, Kashipur, stating that the transactions could not be verified.

11. As regards M/s Ansari Traders, Jaspur Road, Kashipur, TIN 05007004007, the dealer had made purchases aggregating Rs. 1,20,180/-, involving ITC/VAT of Rs. 16,224/-, supported by four invoices. The ITC on one invoice, namely Bill No. 688 for purchase value of Rs. 19,080/- and VAT of Rs. 2,576/-, was accepted by the Assessing Authority. However, ITC on the remaining three invoices, representing purchase value of Rs. 1,01,100/- and VAT of Rs. 13,648/-, was disallowed only because letter No. 844 dated 07.03.2017 of the ACCT, Khand-1, Kashipur described the transactions as not verifiable.

12. It was urged that the dealer had discharged the primary burden cast upon it by producing the relevant purchase invoices, showing the TINs and registration particulars of the selling dealers, demonstrating that the purchases were recorded in its regular books of account, and establishing that the transactions formed part of its normal manufacturing and trading activity. The Department did not reject the books of account, did not dispute

the existence of the selling dealers, and did not record any finding that the goods were not actually purchased or used in business.

13. It was further submitted that both selling dealers had been carrying on transactions with the dealer in the ordinary course of business over a period of time, including in years preceding the assessment year in question. The ITC relating to M/s Captain Organic having since been verified by the Department, the surviving controversy is confined to M/s Ansari Traders. There was no material to suggest that M/s Ansari Traders was fictitious, non-existent, or merely a name-lender. On the contrary, it was treated by the Department itself as a registered dealer at the relevant time, and its TIN was valid when the invoices were issued.

14. The learned counsel emphasized that the sole basis of disallowance is the expression “not verified” appearing in departmental correspondence received from the jurisdictional circles of the selling dealers. Such correspondence, by itself, does not establish that the purchases were bogus, that the invoices were fabricated, that the goods did not move, or that the dealer had acted in collusion with the sellers. A bare inability of the Department to verify entries from the seller's side cannot be equated with proof of fraud or absence of genuine purchase on the buyer's side.

15. The dealer had also offered a reasonable explanation for the mismatch, namely that the selling dealers may have inadvertently reported the sales in their quarterly Form-III returns under Annexure 2(B), meant for sales to unregistered dealers, instead of Annexure-2, meant for sales to registered dealers. Such an error, if any, lay wholly within the domain of the selling dealers. The purchasing dealer had neither access to the sellers' returns nor any statutory control over the manner in which the sellers classified their outward supplies.
16. Reliance was specifically placed on the judgment/order of the Hon'ble Supreme Court in Commissioner, Trade and Tax, Delhi v. M/s Shanti Kiran India (P) Ltd., wherein the Supreme Court considered whether ITC could be denied to registered purchasing dealers who had paid tax to registered selling dealers on the strength of tax invoices, merely because the selling dealers did not deposit the tax with the Government. The Supreme Court noted that the selling dealers were registered on the date of transaction and that the purchasing dealers had paid tax in good faith; it declined to interfere with the Delhi High Court's view allowing ITC after due verification of invoices.
17. It was argued that the ratio of Shanti Kiran squarely applies to the present case. Here also, the purchases were made from dealers registered with the Department at the relevant time; the invoices carried the sellers' registration particulars; the purchases were recorded in the dealer's regular books; and

there is no allegation of fraud, collusion, bogus billing, or fictitious movement of goods. If the selling dealers failed to correctly report, reconcile, or deposit tax, the Department's remedy lay against such selling dealers and not by denying legitimate ITC to a bona fide purchasing dealer.

18. It was finally submitted that the surviving disallowance also violates the principles of natural justice, as the full contents and precise basis of the verification material relating to M/s Ansari Traders were not furnished to the dealer before being used adversely. The dealer was not given an effective opportunity to confront the material, seek reconciliation from the concerned selling dealer's jurisdictional circle, or demonstrate that any discrepancy was attributable to the selling dealer's own reporting conduct. On these grounds, and particularly in view of the protection afforded to bona fide purchasers in Shanti Kiran, the dealer prayed that the surviving disallowance of ITC of Rs. 13,648/- be set aside and the appeal be allowed to that extent.

IV. SUBMISSIONS OF RESPONDENT/DEPARTMENT

19. Shri Kamal Kishore Joshi, Assistant Commissioner, State Tax and State Representative, appeared on behalf of the Department and supported the assessment order as well as the order passed by the First Appellate Authority. He submitted that both authorities had examined the dealer's claim in accordance with law. He further submitted that, during the second

appeal proceedings, the ITC relating to M/s Captain Organic had been verified by the Department, and therefore the dispute now survives only in respect of the balance ITC of Rs. 13,648/- relating to M/s Ansari Traders.

20. It was contended that input tax credit is not an automatic or unconditional benefit, but a statutory concession available only upon strict fulfilment of the conditions prescribed under the Act and the Rules. According to the Department, the burden to establish the genuineness of the purchases, the identity and conduct of the selling dealer, and the admissibility of ITC remains upon the dealer claiming such credit. Therefore, where the balance claim of Rs. 13,648/- still failed the departmental process of seller-side verification, the Assessing Authority was justified in disallowing the corresponding credit.
21. The Department further submitted that the Assessing Authority had not acted on suspicion or conjecture. Initially, verification was sought from the jurisdictional circles of both M/s Captain Organic and M/s Ansari Traders. However, during the second appeal proceedings, the ITC relating to M/s Captain Organic was verified by the Department. The Department therefore pressed the matter only in respect of the surviving balance claim of Rs. 13,648/- relating to M/s Ansari Traders, contending that the verification material concerning that selling dealer constituted relevant material for testing the correctness of the remaining ITC claim.

22. It was also urged that mere production of tax invoices, entries in the books of account, or evidence of payment through banking channels cannot, by itself, compel allowance of ITC where the corresponding sales are not traceable or verifiable in the records of the concerned selling dealer. According to the Department, unless the dealer establishes that M/s Ansari Traders had duly disclosed the corresponding sales and that tax had in fact been accounted for in accordance with law, the remaining claim of ITC continues to remain deficient. The First Appellate Authority, therefore, committed no error in affirming the surviving disallowance of Rs. 13,648/-.

23. On the aforesaid basis, the Department prayed that the appeal be dismissed, the orders passed by the authorities below be upheld, and the surviving disallowance of ITC of Rs. 13,648/- be sustained.

24. Both sides were heard at length. The assessment record, appellate order, written and oral submissions, and the paper-book placed before this Tribunal have been carefully perused.

V. STATUTORY PROVISIONS

25. Before examining the rival submissions, it is necessary to notice the statutory provision governing input tax credit under the Uttarakhand Value Added Tax Act, 2005. Section 6 recognises the entitlement of a registered dealer to claim credit of input tax paid or payable on eligible purchases,

subject to the conditions, restrictions, and procedure prescribed under the Act and the Rules. The relevant part of Section 6 is reproduced below:

“6. Input tax credit.— Subject to the provisions of this Act and such conditions and restrictions as may be prescribed, a registered dealer shall be entitled to claim credit of input tax paid or payable by him on the purchase of taxable goods from within the State from a registered dealer, where such goods are purchased for the purpose of resale, manufacture, processing, packing, use as raw material or consumables, or for use in the course of business for making taxable sales. Such input tax credit shall be admissible on the basis of a valid tax invoice issued by a registered selling dealer and shall be adjusted against the output tax payable by the purchasing dealer in the manner prescribed. No input tax credit shall be allowed unless the dealer claiming such credit maintains the prescribed accounts and documents and satisfies the assessing authority that the claim is in accordance with the Act and the Rules.”

26. On a plain reading of Section 6, input tax credit is available to a registered purchasing dealer upon satisfaction of the foundational statutory requirements. The dealer must establish that the purchases were effected within the State from a registered selling dealer, that the goods were taxable and were purchased for resale, manufacture, processing, use as raw material or consumables, or otherwise for use in the course of taxable business, and that the claim is duly supported by prescribed accounts and valid tax invoices. Once these primary conditions are shown, the provision cannot be read as imposing upon the purchasing dealer an obligation to supervise or guarantee the subsequent statutory compliance of the selling dealer,

including the manner in which such seller records the transaction, files returns, classifies sales, or deposits tax after completion of the sale.

VI. POINTS FOR DETERMINATION

27. In the light of the statutory framework noticed above, the undisputed factual background, and the rival submissions advanced by the parties, the issues arising for adjudication in the present second appeal may appropriately be formulated as follows:

- (i). Whether, after departmental verification of the ITC relating to M/s Captain Organic, the dealer has established its entitlement to the remaining disputed ITC of Rs. 13,648/- claimed in respect of purchases from M/s Ansari Traders, notwithstanding the report of non-verification received from the concerned jurisdictional circle?
- (ii). Whether the surviving disallowance of ITC of Rs. 13,648/-, as confirmed by the First Appellate Authority, calls for interference by this Tribunal?
- (iii). To what relief is the dealer entitled on the ITC issue?

VII. DISCUSSION AND FINDINGS

Points (i) and (ii): Surviving disallowance of ITC of Rs. 13,648/-

28. The right to claim input tax credit flows from Section 6 of the Act and is available only when the statutory conditions are satisfied. The purchasing dealer must, at the threshold, show that the purchases were made from a registered selling dealer within the State, that the goods were taxable and were used or intended to be used in the course of business, and that the claim is supported by prescribed records, including valid tax invoices. That initial burden lies on the dealer claiming credit; however, the extent of that burden must be assessed with reference to the specific ground on which the Revenue seeks to deny the claim. Since the ITC relating to M/s Captain Organic has now been verified by the Department during the second appeal proceedings, the present adjudication is confined to the surviving disallowance of Rs. 13,648/- relating to M/s Ansari Traders.

29. In the present case, so far as the surviving claim relating to M/s Ansari Traders is concerned, the dealer produced purchase invoices containing the registration particulars and TIN of the said selling dealer, entries in its regular books of account, and material showing that the purchases formed part of its ordinary business activity. The books of account and the trading results were not rejected. There is no finding that M/s Ansari Traders was non-existent, that the invoices were fabricated, that the goods were not received, or that the dealer was party to any collusive or fraudulent

arrangement. On these facts, the foundational requirements for claiming the remaining ITC stood substantially established.

30. The surviving disallowance rests on the verification material relating to the balance claim of Rs. 13,648/- in respect of purchases from M/s Ansari Traders. A report of non-verification, without disclosure of the specific discrepancy and without any finding of bogus purchase, fictitious invoice, non-movement of goods, fraud, or collusion, cannot by itself displace the documentary material produced by the purchasing dealer. The dealer's explanation that the mismatch may have arisen because the selling dealer wrongly reflected the sales in the annexure meant for unregistered dealers is also plausible, since return-filing and classification of sales were matters exclusively within the seller's control.
31. The above conclusion is supported by the principle laid down by the Hon'ble Supreme Court in Commissioner, Trade and Tax, Delhi v. M/s Shanti Kiran India (P) Ltd., Civil Appeal Nos. 2042-2047 of 2015 with Civil Appeal No. 9902 of 2017, order dated 09.10.2025. In that matter, the Hon'ble Court considered whether a registered purchasing dealer, who had paid the tax component to a registered selling dealer against tax invoices, could be denied ITC merely because the selling dealer thereafter failed to deposit the collected tax with the Government. The Hon'ble Supreme Court noticed that the selling dealers were registered on the date of transaction and that the

purchasers had acted on the strength of invoices issued by such registered dealers.

32. The Hon'ble Supreme Court also noted that cancellation of the selling dealers' registration had occurred only after completion of the transactions, and that the purchasing dealers had paid tax in good faith to persons who were validly registered at the relevant time. In that background, the Court declined to interfere with the Delhi High Court's view protecting bona fide purchasing dealers and holding that ITC could not be denied, after due verification of invoices, merely on account of the subsequent default of the selling dealers.

33. The principle emerging from Shanti Kiran is that, where the purchasing dealer has dealt with a selling dealer who was registered on the date of transaction, has obtained a proper tax invoice, has recorded the purchase in its regular books, and has acted bona fide, the Department cannot deny ITC solely because of a subsequent default, omission, or reporting failure on the part of the selling dealer. In the absence of fraud or collusion, the appropriate course for the Department is to proceed against the defaulting seller in accordance with law; the burden of such default cannot be shifted to an innocent purchaser.

34. Applying that principle, the surviving claim in the present case now stands confined to M/s Ansari Traders, as the ITC relating to M/s Captain Organic has been verified by the Department during the second appeal proceedings. In respect of M/s Ansari Traders also, the selling dealer was registered at the relevant time; the invoices contained its registration particulars and TIN; the purchases were entered in the dealer's regular books; and no adverse finding has been recorded regarding fabrication of invoices, non-receipt of goods, or collusion with the seller. The mere absence of traceability or verification in the seller-side records is therefore insufficient to defeat the dealer's remaining claim, particularly when any omission in return-filing or classification of sales was within the exclusive control of the selling dealer.
35. The surviving disallowance is also vulnerable on the ground of natural justice. The verification material from the concerned jurisdictional circle of M/s Ansari Traders was treated as the decisive basis for denying the balance ITC of Rs. 13,648/-, yet the precise material, discrepancy, or adverse particulars contained in that communication were not disclosed to the dealer. Where third-party material is relied upon to visit an assessee with civil consequences, the assessee must be given a meaningful opportunity to know the case against it, explain the alleged mismatch, and seek reconciliation wherever necessary. That opportunity was not effectively afforded in the

present case, rendering the reliance on undisclosed or insufficiently disclosed verification material legally infirm.

36. Thus, on overall consideration of the assessment record, the appellate order, the verification material referred to by the Department, the subsequent departmental verification of the ITC relating to M/s Captain Organic, and the documents produced by the dealer, the surviving disallowance of Rs. 13,648/- relating to M/s Ansari Traders cannot be sustained. The decisive facts are that the selling dealer was registered at the relevant time, the invoices carried its registration particulars, the purchases were recorded in the regular books of account, the books were not rejected, and there is no finding of bogus purchase, fabricated invoice, non-movement of goods, fraud, or collusion. A bare report of non-verification from the seller's circle, without more, is insufficient to defeat the dealer's otherwise substantiated claim. Points (i) and (ii) are accordingly answered in favour of the dealer and against the Department.

Point (iii): Relief

37. In consequence of the findings recorded above, the dealer is entitled to relief on the surviving disputed ITC issue. Since the balance disallowance of Rs. 13,648/- has been found unsustainable, the said ITC is liable to be allowed to the dealer, with consequential recomputation of its tax liability in accordance with law.

VIII. ORDER

38. For the reasons recorded above, the surviving disallowance of ITC of Rs. 13,648/- is set aside. The dealer is held entitled to the said credit and all consequential benefits in accordance with law.

39. Accordingly, Second Appeal No. 124 of 2025 is allowed to the above extent. The Assessing Authority shall give effect to this order by allowing the aforesaid ITC of Rs. 13,648/- and recomputing the dealer's tax liability for A.Y. 2013-14.

S/D
Rakesh Verma
Member
Commercial Tax Tribunal, Uttarakhand,
Haldwani

Date: 09-09-2026

Place- Haldwani