IN THE COMMERCIAL TAX TRIBUNAL, UTTARAKHAND
DIVISION BENCH AT HALDWANI

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

Second Appeal No. 115/2025
(Assessment Year 2017-18, First Quarter)
(Under Section 53 of the Uttarakhand Value Added Tax Act, 2005 arising out of order passed under section 52 of the said Act)

M/s Motherboon Foods Pvt. Ltd., Jaspur Road, Kashipur
... Appellant

Versus

Commissioner, State Tax, Uttarakhand
... Respondent

For the Appellant: Shri Mayank Kumar Gupta, Ld. Advocate

For the Respondent: Smt. Shailja Pathak, Deputy Commissioner, State Tax and State Representative

JUDGMENT

I. INTRODUCTION

1. This second appeal has been preferred by the dealer-appellant under Section 53 of the Uttarakhand Value Added Tax Act, 2005 ("the Act"), challenging the order dated 03.07.2025 passed by the Joint Commissioner (Executive), State Tax, Rudrapur, as Revisional Authority, in Revision Order No. 1104/2025. The revision arose from the assessment order dated 13.04.2022 passed under Section 25(7) of the Act for the first quarter of Assessment Year 2017-18. By the impugned order, the Revisional Authority reclassified the appellant's Central sale of certain plant and machinery—described by the appellant as "iron scrap

(old machinery)" and taxed at the concessional rate of 5% under Entry 40 of Schedule II-B of the Act—as a sale of unclassified goods taxable at the residuary rate of 14.5%. On that basis, an additional tax demand of Rs. 5,62,875/- was raised, along with simple interest at 15% per annum under Section 34(4) of the Act.

2. The principal issue for determination is - **whether the Central sale of old plant and machinery by the dealer-appellant was liable to be treated as a sale of "iron scrap (old machinery)" so as to attract the concessional rate under Entry 40 of Schedule II-B of the Act, or whether, in the absence of reliable contemporaneous evidence showing that the goods had lost their functional character and commercial identity as plant and machinery, the transaction was rightly treated as a sale of unclassified goods taxable at the residuary rate.** A further consequential issue is - **whether simple interest under Section 34(4) of the Act is chargeable on the differential tax demand arising from such reclassification.**

3. We have heard learned counsel for the dealer-appellant and the learned State Representative for the respondent-Department at length. We have also carefully perused the material available on record, including the assessment order, the impugned revisional order passed by the Joint Commissioner (Executive), State Tax, Rudrapur, and the judicial precedents cited at the Bar. Having considered the rival submissions, the documentary record, and the applicable legal

principles, this Tribunal proceeds to decide the issues arising in the present appeal for the reasons recorded hereinafter.

II. FACTS OF THE CASE

4. The appellant, M/s Motherboon Foods Pvt. Ltd., having its place of business at Jaspur Road, Kashipur, is a registered dealer under the Act and is engaged in the manufacture and sale of food products. The controversy in the present appeal relates to the first quarter of Assessment Year 2017-18, i.e., the period from April to June 2017.

5. The original assessment for the said quarter was completed on 13.04.2022 by the Deputy Commissioner (Assessment)-I, State Tax, Kashipur, under Section 9(2) of the Central Sales Tax Act, 1956, read with the relevant provisions of the Act. During the assessment proceedings, the appellant disclosed a Central sale of plant and machinery valued at Rs. 59,25,000/- to a registered dealer. The goods were described as "iron scrap (old machinery)" falling under Entry 40 of Schedule II-B of the Act, and tax was paid there on at the concessional rate of 5%, amounting to Rs. 2,96,250/-. The classification so claimed was accepted in the original assessment without any recorded objection, enquiry, or verification on that specific issue.

6. Upon subsequent scrutiny of the assessment record, an objection was raised that old plant and machinery could not be treated as iron scrap merely on the

basis of the dealer's description, unless contemporaneous material established that the goods had lost their functional character and commercial identity as machinery and had, in fact, degenerated into scrap. The appellant was therefore called upon to justify the concessional classification and to produce evidence demonstrating that the goods sold were scrap and not usable machinery. This requirement assumed significance having regard to the substantial sale consideration, the absence of weighment or scrap-rate records, and the continued description of the goods as plant and machinery in the relevant documents.

7. In response, the appellant appeared through its authorised representative and produced the purchase and sale bills relating to the capital goods in question. Shri Mayank Kumar Gupta, appearing on behalf of the appellant, sought two days' time to place on record the audited balance sheet in support of the alleged write-off or scrapping of the asset, and such time was granted. However, the audited balance sheet was neither filed within the time so allowed nor produced at any subsequent stage of the proceedings.

8. The Revisional Authority recorded that the appellant had failed to produce any statutory basis, binding precedent, or contemporaneous documentary evidence to substantiate its claim for concessional taxation. No audited balance sheet, valuation report, photographs, condemnation or scrapping certificate, weighment slips, scrap-rate invoice, or comparable material was placed on

record to establish that the machinery had ceased to retain its character as plant and machinery and had become scrap. The explanation offered by the appellant was, accordingly, rejected. The sale consideration of Rs. 59,25,000/- was brought to tax as unclassified goods at the rate of 14.5%,and after giving credit for the tax of Rs.2,96,250/- already paid, an additional demand of Rs. 5,62,875/- was raised together with interest under Section 34(4) of the Act.

9. The order dated 03.07.2025 passed by the Joint Commissioner (Executive), State Tax, Rudrapur, in Revision Order No. 1104/2025 is the subject matter of challenge in the present second appeal. Before the Revisional Authority, the appellant maintained that the machinery was old, rusted, and non-functional and had therefore rightly been sold as scrap. The appellant also relied upon its alleged treatment in the books of account. However, neither the audited balance sheet nor any other contemporaneous corroborative material was produced to substantiate the said plea.

10. On consideration of the bills, the value of the transaction, the description of the goods, and the absence of supporting evidence, the Revisional Authority rejected the appellant's claim for concessional classification. The transaction was reclassified as a sale of unclassified goods liable to tax at the rate of 14.5%, and the consequential demand of tax and interest was sustained. Aggrieved by the said order, the appellant has preferred the present appeal under Section 53 of the Act, seeking restoration of the concessional rate of 5% originally claimed.

11. It is not in dispute that, save and except the purchase and sale bills, the appellant has not produced any contemporaneous documentary evidence either before the Assessing Authority, the Revisional Authority, or this Tribunal to establish that the goods in question were liable to be treated as scrap.

III. SUBMISSIONS ON BEHALF OF THE APPELLANT

12. Shri Mayank Kumar Gupta, learned counsel appearing for the dealer-appellant, assailed the impugned revisional order and submitted that the reclassification made by the Revisional Authority is unsustainable both on facts and in law. The substance of the submissions advanced on behalf of the appellant may be noticed as follows.

13. Learned counsel first contended that the impugned order is vitiated by violation of the principles of natural justice and is also contrary to the material available on record. It was urged that the Revisional Authority interfered with the original assessment without properly appreciating the circumstances in which the machinery had been sold and without giving due consideration to the explanation furnished by the appellant.

14.It was submitted that the plant and machinery in question had become old, rusted, and unusable due to prolonged non-use and want of maintenance. According to the appellant, the machinery had ceased to have any independent functional utility and was no longer capable of being used for manufacturing

activity. Since no purchaser was willing to buy it as functional capital equipment, and in order to mitigate continuing losses, the appellant disposed of the asset as iron scrap for a reduced consideration. The resultant loss, it was stated, was written off in the books of account and reflected in the balance sheet audited by a Chartered Accountant.

15. Learned counsel further submitted that the sale consideration of Rs. 59,25,000/- itself demonstrated the deteriorated condition of the machinery, as the amount realised was nearly 75% lower than its original acquisition cost, which was stated to exceed Rs. 2.4 crores. It was therefore argued that the transaction was not a sale of functional capital goods in the ordinary course, but a distress sale of obsolete machinery which, in commercial parlance, had assumed the character of scrap.

16. It was further urged that the description of the goods as "iron scrap (old machinery)" had been accepted by the Department in the original assessment order dated 13.04.2022. According to learned counsel, the subsequent reclassification, based merely on an audit objection and not on any fresh tangible material, amounted to an impermissible change of opinion and could not be sustained.

17. Learned counsel also submitted that the appellant-company is not presently carrying on any business or manufacturing activity. This circumstance,

according to him, lends support to the appellant's stand that the machinery had out lived its productive utility and was disposed of only as discarded scrap.

18. In support of these submissions, learned counsel placed reliance upon the Hon'ble Supreme Court, Hon'ble Madras High Court and Hon'ble Rajasthan High Court Judgments - ***J.P. Steel v. S.T.O. &Anr.*, 2000 UPTC 358; *Chitrahar Traders v. Commissioner of Commercial Taxes*, (2008) 14 VST 439 (Madras); *C.T.O., Circle "C", Jodhpur v. M/s D.N. Steels*, 2010 Supreme (Raj) 1135; *Rainbow Steels Ltd. v. Commissioner of Sales Tax*, (1981) 2 SCC 141; *CIT v. MugneeramBangur& Co.*, (1965) 57 ITR 299 (SC); *Bhopal Sugar Industries Ltd. v. Sales Tax Officer*, (1977) 3 SCC 147; and *Bajaj Hindustan Ltd. v. Commissioner of Trade Tax, U.P.*, 2009 NTN (Vol. 41)-69.** Relying on the said authorities, it was submitted that the real nature, physical condition, and commercial substance of the goods at the time of sale must prevail over any formal nomenclature, and that old, discarded, and non-functional machinery sold as scrap is entitled to the concessional rate applicable to scrap.

19. On the question of interest, learned counsel submitted that the additional demand of Rs. 5,62,875/- was neither accepted nor admitted by the appellant and, therefore, could not be treated as "admitted tax" within the meaning of Section 34(4) of the Act. It was urged that interest under the said provision is attracted only where tax is admitted by the dealer and remains unpaid, and not

where the demand itself is disputed and subject to adjudication. Reliance was placed on ***Bansal Motors v. State of U.P. and Others*, (2010) 13 VLJ 65,** wherein the **Hon'ble Allahabad High Court**, by judgment dated 02.02.2010, held, in the context of the corresponding provision, that interest could not be levied on tax disputed by the dealer and not admitted as payable. It was accordingly prayed that the impugned revisional order, the reclassification of the transaction, the additional demand, and the consequential levy of interest be set aside, and that the concessional rate of 5% originally claimed by the appellant be restored.

IV. SUBMISSIONS ON BEHALF OF THE RESPONDENT

20. Per contra, Smt. Shailja Pathak, learned Deputy Commissioner, State Tax and State Representative appearing for the respondent-Department, supported the impugned revisional order and opposed the appeal. She submitted that the appellant had not discharged the burden of establishing its entitlement to the concessional rate claimed, and that the order under challenge calls for no interference. The submissions advanced on behalf of the respondent may be noticed as follows.

21.Learned State Representative submitted that the burden of proving that a transaction falls within a beneficial Schedule entry carrying a concessional rate rests squarely upon the dealer who claims such benefit. The Revenue is not required to disprove the claim unless the dealer first establishes, by cogent and

reliable material, that the goods sold answer the statutory description relied upon. Reliance was placed on the settled principle affirmed by the Hon'ble Supreme Court in ***Collector of Central Excise v. Parle Exports (P) Ltd.*, (1988) 4 SCC 566; *Novopan India Ltd. v. Collector of Central Excise & Customs*, 1994 Supp (3) SCC 606; and *Union of India v. Garware Nylons Ltd.*, (1996) 10 SCC 413,** that exemptions and concessional provisions must be construed strictly and that any ambiguity must operate against the claimant.

22. It was further submitted that the appellant was afforded a specific opportunity to substantiate its claim, including two days' further time expressly sought and obtained for producing the audited balance sheet. Despite such opportunity, no material was produced to show that the machinery had ceased to be usable plant and machinery and had, in fact, degenerated into scrap. No audited balance sheet, condemnation or scrapping certificate, valuation report, photographs of the goods at the relevant time, purchaser correspondence, weighment slips, scrap-rate invoice, or other contemporaneous evidence was placed on record. In these circumstances, the mere assertion that the machinery was old, rusted, or non-functional could not discharge the burden resting upon the appellant.

23. Learned State Representative urged that the authorities relied upon by the appellant, particularly ***Chitrahar Traders* (supra)** and ***D.N. Steels* (supra)**, are distinguishable on their facts. In those cases, there was affirmative material

before the adjudicating authority to show that the goods had lost their identity as machinery and had become scrap, including contemporaneous descriptions in the sale documents and evidence of prolonged closure or non-use. No comparable material is available in the present case. On the contrary, the goods continued to be treated as plant and machinery or capital goods and were sold as a composite lot for a substantial consideration of approximately Rs. 59.25 lakhs, which, according to the Department, is more consistent with a sale of used capital equipment than with a sale of ferrous scrap ordinarily traded by weight at prevailing scrap rates.

24.It was also submitted that the doctrine of substance over form, as recognised in ***CIT v. MugneeramBangur& Co.*** **and** ***Bhopal Sugar Industries Ltd. v. Sales Tax Officer,*** does not advance the appellant's case in the absence of proof. The doctrine enables the taxing authority to look beyond the label adopted by the parties and to ascertain the true character of the transaction. It does not, however, permit a dealer to obtain a concessional rate merely by describing usable or identifiable machinery as scrap. Unless the appellant establishes, by reliable material, that the substance of the transaction was in fact a sale of scrap, the doctrine cannot be invoked to displace the residuary rate of tax.

25.Learned State Representative next contended that the appellant's reliance on ***Rainbow Steels Ltd. v. Commissioner of Sales Tax*** is misplaced. The said decision turned on the interpretation of the specific expression **"old M.S.**

Scrap" occurring in the relevant statutory entry and cannot be read as laying down any universal proposition that every sale of old plant and machinery, irrespective of its condition and the evidence produced, must necessarily be treated as scrap.

26. It was further submitted that the proceedings cannot be faulted as an impermissible change of opinion. According to the Department, the original assessment order dated 13.04.2022 contains no conscious consideration, discussion, or recorded finding on the classification of the goods in question. The concessional rate appears to have been accepted mechanically on the basis of the return and the description furnished by the dealer. Subsequent audit scrutiny only brought to notice the absence of verification and supporting material, thereby furnishing a valid basis for corrective revisional proceedings.

27. On the question of interest, learned State Representative submitted that Section 34(4) of the Act is compensatory in nature and applies to tax which is ultimately found to have been due and payable for the relevant period. According to the Department, the expression "admitted tax" cannot be construed so narrowly as to enable a dealer to avoid liability for interest merely by disputing the demand in appeal. It was further submitted that ***Bansal Motors*** **(supra)** is distinguishable on facts and does not lay down an absolute rule that interest can never be levied on a disputed additional demand once such demand has been adjudicated and confirmed.

28. On the aforesaid submissions, it was contended that the revisional order dated 03.07.2025 passed by the Joint Commissioner (Executive), State Tax, Rudrapur, does not suffer from any illegality, perversity, jurisdictional error, or violation of the principles of natural justice so as to warrant interference in second appeal. Learned State Representative accordingly prayed that the appeal be dismissed and that the reclassification of the transaction as a sale of unclassified goods, together with the consequential demand of tax and interest, be affirmed.

V. STATUTORY PROVISIONS

29. For adjudicating the controversy raised in the present appeal, it is necessary to notice the statutory provisions and interpretative principles governing classification of the goods in question, entitlement to a concessional rate of tax, and the consequential levy of interest. The relevant provisions are referred to hereinafter.

30. Section 3 of the Act is the charging provision. It provides for levy of tax on the turnover of sales of goods effected by a dealer within the State at the rates specified in the Schedules appended to the Act.

31. Entry 40 of Schedule II-B of the Act prescribes a concessional rate of tax of 5% in respect of "iron scrap, old machinery scrap and similar ferrous scrap", as notified from time to time. Since the entry confers a concessional rate, it is required to be construed strictly. The burden, therefore, lies upon the dealer

claiming its benefit to establish that the goods sold squarely fall within the description employed in the entry.

32. Goods which do not fall within any specific Schedule entry are taxable under the residuary category as unclassified goods. The applicable rate in the present case is 14.5%, comprising the then prevailing general rate together with the applicable additional tax or surcharge, as notified. Used or second-hand plant and machinery which has not lost its essential character as plant and machinery is liable to be treated under this residuary category, there being no specific concessional entry governing such capital goods.

33. Section 9(2) of the Central Sales Tax Act, 1956, provides that the authorities empowered to assess, reassess, collect, and enforce payment of tax under the general sales tax law of the State shall, on behalf of the Government of India, exercise corresponding powers in relation to Central sales tax. For that purpose, the provisions of the State Act, including those relating to assessment, recovery, and enforcement, apply mutatis mutandis to Central sales of goods.

34. Section 34(4) of the Act deals with liability to pay simple interest at the prescribed rate where tax remains unpaid or is short-paid beyond the period contemplated under the Act. Such interest runs from the date on which the tax became due until the date of actual payment, subject to the terms of the statutory provision.

VI. POINTS FOR DETERMINATION

35. In the light of the rival submissions, the material available on record, and the statutory framework noticed above, the following points arise for determination in the present appeal:

Point No. 1: Whether, on the facts and material available on record, the Central sale of plant and machinery valued at Rs. 59,25,000/- during the first quarter of Assessment Year 2017-18 was liable to be classified as "iron scrap (old machinery)" taxable at the concessional rate of 5% under Entry 40 of Schedule II-B of the Act, or as unclassified goods taxable at the rate of 14.5%?

Point No. 2: Whether the appellant discharged the burden cast upon it to prove, by cogent contemporaneous evidence, that the plant and machinery sold had lost its functional character and commercial identity as machinery and had degenerated into scrap within the meaning of Entry 40 of Schedule II-B of the Act?

Point No. 3: Whether, upon reclassification of the transaction and confirmation of the differential tax demand of Rs. 5,62,875/-, the levy of simple interest at the rate of 15% per annum under Section 34(4) of the Act is legally sustainable?

Point No. 4: Whether the revisional order dated 03.07.2025 passed by the Joint Commissioner (Executive), State Tax, Rudrapur, suffers from any illegality, impropriety, jurisdictional error, or violation of the principles of natural justice warranting interference by this Tribunal in second appeal?

VII. DISCUSSION AND FINDINGS

Points No. 1 and 2 (taken up together)

36. Classification of goods for the purposes of taxation must be determined with reference to their true nature, condition, commercial identity, and use at the time of sale. The description adopted in an invoice is relevant, but it is not conclusive. In ***State of Tamil Nadu v. Pyare Lal Malhotra*, (1976) 1 SCC 834,** the Hon'ble Supreme Court emphasised that goods are to be understood in the manner in which they are known in the market. The central question, therefore, is whether the machinery in question had lost its identity as plant and machinery and had become scrap, or whether it continued to retain the character of used plant and machinery sold as a capital asset.

37. The authorities relied upon by the appellant proceed on the same principle. In ***Chitrahar Tradersv. Commissioner of Commercial Taxes*, (2008) 14 VST 439 (Madras),** the Hon'ble Madras High Court accepted the claim of scrap classification on the basis of clear material showing that the machinery was no longer functional and had been sold as scrap. Similarly, in ***C.T.O., Circle "C", Jodhpur v. M/s D.N. Steels*, 2010 Supreme (Raj) 1135,** the claim was accepted having regard to the factual finding that the plant had remained closed and the goods had lost their utility as machinery. These decisions do not lay down that every sale of old machinery is necessarily a sale of scrap; rather, they underline

the requirement that the dealer must establish, by reliable evidence, that the machinery had in fact degenerated into scrap.

38. In the present case, the evidentiary foundation necessary to sustain such a claim is absent. The appellant was granted time to produce the audited balance sheet in support of its plea that the machinery had been written off or treated as scrap, yet the same was not produced before the Assessing Authority, the Revisional Authority, or this Tribunal. Apart from the purchase and sale bills, no condemnation certificate, technical or valuation report, photographs, purchaser correspondence, weighment slips, scrap-rate invoice, or other contemporaneous material was filed. The appellant's case thus rests substantially on assertion rather than proof.

39. A concessional rate cannot be claimed on the strength of a mere assertion. The settled law is that exemption and concession provisions are to be construed strictly, and the burden of establishing eligibility lies upon the person who claims the benefit. This principle was stated by the **Hon'ble Supreme Court** in ***A.V. Fernandez v. State of Kerala*, AIR 1957 SC 657, and reiterated in *Collector of Central Excise v. Parle Exports (P) Ltd.*, (1988) 4 SCC 566;*Novopan India Ltd. v. Collector of Central Excise & Customs*, 1994 Supp (3) SCC 606; and *Union of India v. Garware Nylons Ltd.*, (1996) 10 SCC 413.**The appellant, having failed to produce even the audited balance sheet despite opportunity, did not discharge the burden cast upon it.

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40. The manner in which the sale was effected also militates against the appellant's plea. The machinery was sold as a composite lot for Rs. 59,25,000/-. Ferrous scrap is ordinarily traded by weight and at prevailing scrap rates, supported by weighment slips or rate-based invoices. No such record has been produced in the present case. The consolidated and substantial consideration received by the appellant is, therefore, more consistent with the sale of used machinery than with a sale of ferrous scrap.

41. The appellant's reliance on the doctrine of substance over form is equally misplaced. As explained by the Hon'ble Supreme Court in ***CIT v. MugneeramBangur& Co.*, (1965) 57 ITR 299 (SC), and *Bhopal Sugar Industries Ltd. v. Sales Tax Officer*, (1977) 3 SCC 147**, the doctrine permits the authority to look beyond the label adopted by the parties and ascertain the real character of the transaction. It does not, however, permit a dealer to secure a concessional rate merely by describing identifiable machinery as scrap. The appellant was required to prove that the transaction, in substance, was a sale of scrap; that burden has not been discharged.

42. In the light of Hon'ble Supreme Court decision ***Rainbow Steels Ltd. v. Commissioner of Sales Tax*, (1981) 2 SCC 141,** also does not advance the appellant's case. That decision turned upon the interpretation of the specific expression "old M.S. Scrap" occurring in the relevant statutory entry. It cannot be read as laying down a general proposition that all old machinery, irrespective

of its physical condition and the evidence produced, must be treated as scrap. The appellant was still required to establish that the machinery sold in the present case had, in fact, become scrap.

43. The reliance placed on the Hon'ble Supreme Court decisions ***J.P. Steel v. S.T.O. & Anr.*, 2000 UPTC 358, and *Bajaj Hindustan Ltd. v. Commissioner of Trade Tax, U.P.*, 2009 NTN (Vol. 41)-69,** is likewise of no assistance to the appellant. Those decisions turned on their own factual settings, including declarations made before statutory authorities and departmental circulars. They do not dilute the requirement that a dealer claiming scrap classification must prove, through contemporaneous evidence, that the goods had actually lost their identity as machinery and had become scrap. On the facts of the present case, therefore, the said Hon'ble Supreme Court authorities are distinguishable and not applicable in this matter.

44. The plea founded on change of opinion is also untenable. The original assessment order dated 13.04.2022 does not disclose any conscious consideration, discussion, or finding on the classification of the goods in question. The concessional rate appears to have been accepted on the basis of the return and the description furnished by the dealer. When subsequent audit scrutiny revealed that the claim had been accepted without verification or supporting material, corrective revisional action was validly initiated. In the

absence of any earlier formed opinion on the issue, the question of a change of opinion does not arise.

45. This Tribunal has no hesitation in accepting the legal proposition that old and unusable machinery may, in an appropriate case, be treated as scrap. However, such classification must be supported by credible and contemporaneous evidence. In the present case, no audited balance sheet, technical report, valuation report, photographs, purchaser correspondence, or similar material was placed on record. The difficulty with the appellant's case is, therefore, not the legal principle invoked, but the complete absence of proof necessary to attract the concessional entry.

46. For the reasons aforesaid, this Tribunal holds that the appellant failed to establish that the machinery sold for Rs. 59,25,000/- during the first quarter of Assessment Year 2017-18 had become non-functional scrap falling within Entry 40 of Schedule II-B of the Act. The Revisional Authority was, therefore, justified in treating the transaction as a sale of unclassified goods taxable at the rate of 14.5% and in sustaining the consequential additional demand. **Points No. 1 and 2 are answered against the appellant and in favour of the Respondent.**

Point No. 3 — Interest under Section 34(4) of the Act

47. The appellant's submission that interest under Section 34(4) of the Act is

chargeable only on admitted tax cannot be accepted in the facts of the present case. The provision is compensatory in nature and is attracted where tax payable for a relevant period remains unpaid or is short-paid. Once the additional demand of Rs. 5,62,875/- stands confirmed, the said amount represents tax legally due for the quarter in question. The mere fact that the appellant disputed the demand does not, by itself, arrest the running of statutory interest.

48. Hon'ble Allahabad High Court in ***Bansal Motors v. State of U.P. and Others*, (2010) 13 VLJ 65,** does not compel a contrary conclusion. The said judgment has to be read in the context of its own facts and the provision considered therein. It cannot be treated as laying down an absolute proposition that interest is never payable on an additional demand merely because the dealer disputes the liability. Acceptance of such a contention would enable a dealer to retain tax found legally payable without compensating the State for the period of non-payment, which would be contrary to the compensatory character of interest.

49. This Tribunal, therefore, holds that the levy of simple interest at the rate of 15% per annum under Section 34(4) of the Act on the confirmed additional demand of Rs. 5,62,875/- is legally sustainable. **Point No. 3 is answered against the appellant.**

50. The appellant has not separately assailed either the applicable rate of

interest or the period for which interest has been computed. No arithmetical or computational error has been pointed out before this Tribunal. There is, therefore, no independent ground to interfere with the levy of interest as sustained by the Revisional Authority.

Point No. 4 — Natural Justice and Validity of the Revisional Order

51. The plea alleging violation of the principles of natural justice is not borne out from the record. The appellant was issued notice, was heard, and was granted further time, on its own request, to produce the audited balance sheet. Despite such opportunity, neither the balance sheet nor any other supporting material was produced. No specific instance of denial of hearing, non-supply of relied-upon material, refusal to receive evidence, or other procedural irregularity has been demonstrated. A general allegation of breach of natural justice, in the absence of supporting particulars, cannot be accepted.

52. This Tribunal has examined the revisional order dated 03.07.2025 in the light of the record and the submissions advanced by the parties. The Revisional Authority considered the relevant material, applied the governing legal principles, and recorded findings which are supported by the record. No illegality, perversity, jurisdictional error, or procedural infirmity warranting interference in second appeal has been shown. **Point No. 4 is accordingly answered against the appellant.**

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53. This Tribunal further observes that a dealer claiming scrap classification in respect of old machinery is expected to maintain and produce appropriate contemporaneous records, such as scrapping or condemnation certificates, technical or valuation reports, photographs, weighment records, scrap-rate invoices, purchaser correspondence, and corresponding disclosure in the audited balance sheet. Such material enables proper verification of the claim and minimizes classification disputes. In the present case, the absence of such evidence is fatal to the appellant's claim.

VIII. ORDER

54. For the reasons aforesaid, the reclassification of the transaction as a sale of unclassified goods taxable at 14.5%, and the consequential demand of Rs. 5,62,875/- with interest under Section 34(4) of the Act, are upheld. The second appeal is accordingly dismissed, and the revisional order dated 03.07.2025 passed by the Joint Commissioner (Executive), State Tax, Rudrapur, in Revision Order No. 1104/2025, is affirmed.

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55. The appellant shall deposit the outstanding demand, together with interest accrued and accruing under Section 34(4) of the Act, within the period prescribed by law; failing such deposit, recovery shall proceed in accordance with law.

S/D-

(Rakesh Verma)
Member
Commercial Tax Tribunal,
Uttarakhand

S/D-26-09-26

(Gurubaksh Singh)
Chairman
Commercial Tax Tribunal,
Uttarakhand

Date: 26-09-2026

Place: Haldwani

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