THE COMMERCIAL TAX TRIBUNAL, UTTARAKHAND
DIVISION BENCH, HALDWANI

Present:

Shri Gurubaksh Singh, H.J.S. — Chairman

Shri Rakesh Verma — Member

1. Second Appeal No. 24 of 2025 (Assessment Year 2015-16)

(Under Section 25(7) of the Uttarakhand Value Added Tax Act, 2005)

M/s Bhadrakali Industries, Village Kishanpur, Kichha,
Udham Singh Nagar

...Appellant (Dealer)

Versus

Commissioner, State Tax, Uttarakhand

...Respondent (Department)

2. Second Appeal No. 29 of 2025 (Assessment Year 2015-16)

(Under Section 25(7) of the Uttarakhand Value Added Tax Act, 2005)

Commissioner, State Tax, Uttarakhand

...Appellant (Department)

Versus

M/s Bhadrakali Industries, Village Kishanpur, Kichha,
Udham Singh Nagar

...Respondent (Dealer)

3. Second Appeal No. 30 of 2025 (Assessment Year 2015-16)

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

Commissioner, State Tax, Uttarakhand

...Appellant (Department)

Versus

M/s Bhadrakali Industries, Village Kishanpur, Kichha,
Udham Singh Nagar

...Respondent (Dealer)

For the Dealer: Shri Deepak Goyal, Ld.Advocate

For the Department: Smt. Shailja Pathak, State Representative and Deputy Commissioner (Commercial Tax)

JUDGMENT

I. INTRODUCTION

1. These three second appeals — Second Appeal No. 24 of 2025 filed by M/s Bhadrakali Industries ("the dealer") and Second Appeal Nos. 29 and 30 of 2025 filed by the Commissioner, State Tax, Uttarakhand ("the Department") — arise out of the common appellate decision dated 30-12-2024 passed by the Joint Commissioner (Appeals), State Tax, Haldwani ("the First Appellate Authority") in First Appeal Nos. 44/2024 and 45/2024 for the assessment year 2015-16. Since the appeals involve the same parties, the same assessment record, the same Special Investigation Branch report and substantially overlapping questions of law and fact under the Uttarakhand Value Added Tax Act, 2005 and the Central Sales Tax Act, 1956, they were heard together and are being disposed of by this common judgment.

2. In Second Appeal No. 24 of 2025, the dealer challenges that part of the appellate decision under the VAT Act which sustains tax at 5 percent on the local sale of M.S. patties worth Rs. 95,39,850 made against Form 11 and further sustains an addition of Rs. 5,60,112, being three times the tax allegedly saved under Section 4(7)(d) of the VAT Act on transactions with M/s B.T.C. Industries Ltd., resulting in a net outstanding demand of Rs. 1,36,271.

3. In Second Appeal No. 29 of 2025, the Department challenges the same appellate decision under the VAT Act to the extent it grants relief to the dealer

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and declines to restore the ex parte best-judgment assessment order dated 31-08-2021, by which a demand of Rs. 27,50,000/- had been raised.

4. In Second Appeal No. 30 of 2025, the Department similarly challenges the appellate decision under the CST Act on the ground that the First Appellate Authority ought to have restored the ex parte best-judgment assessment order dated 31-08-2021, by which inter-State sales were estimated at Rs. 80,00,00,000/- and a demand of Rs. 4,00,00,000/- was raised, instead of restricting the liability to Rs. 1,06,527 with a net balance demand of Rs. 6,527/-.

5. The disputed tax is stated to be Rs. 7,83,333/- in Second Appeal No. 24 of 2025, Rs. 17,56,160/- in Second Appeal No. 29 of 2025, and Rs. 3,99,46,736/- in Second Appeal No. 30 of 2025. Having thus identified the nature of the three appeals and the competing reliefs sought therein, it is necessary first to notice the relevant factual background from which the controversy has arisen.

II. FACTS OF THE CASES

6. The dealer is registered under the VAT Act and the CST Act and is engaged in the manufacture and sale of M.S. TMT bars, M.S. patties and allied steel re-rolling products from misrolls/scrap used as raw material. For the assessment year 2015-16, its business was originally assessed ex parte by order dated 23-08-2018.

7. The dealer challenged the order dated 23-08-2018 before the Joint Commissioner (Appeals), State Tax, Rudrapur, who remanded the matter for fresh assessment after hearing the dealer. Notice was thereafter issued for 10-08-2021 and, on the process server's report, treated as duly served; however, the dealer did not appear or seek adjournment and did not produce its books of account, vouchers or other primary records. The Assessing Authority therefore proceeded to frame fresh ex parte best-judgment assessments under Section 25(7) of the VAT Act and, for inter-State turnover, under Section 9(2) of the CST Act.

8. By separate orders dated 31-08-2021, the Assessing Authority estimated local sales of steel bars at Rs. 5,50,00,000/- and levied VAT of Rs. 27,50,000/- at 5 percent, and estimated inter-State sales at Rs. 80,00,00,000/- and levied CST of Rs. 4,00,00,000/- at the same rate.

9. Both assessment orders relied on the Special Investigation Branch, Rudrapur report prepared after inspection of the dealer's premises on 23-12-2015. The report referred to alleged suppression of sales and discrepancies in bill particulars, including transactions said to appear in lorry-challan data but not in returns, use of the same bill number for different particulars, an input-tax-credit claim unsupported by the selling dealer's return, and similar alleged discrepancies relating mainly to the succeeding year 2016-17.

10. The dealer preferred first appeals against both ex parte assessment orders dated 31-08-2021. By common decision dated 30-12-2024 in First Appeal No. 44/2024 under the VAT Act and First Appeal No. 45/2024 under the CST Act, the First Appellate Authority substantially allowed the appeals.

11. In First Appeal No. 44/2024, the First Appellate Authority noted declared local sales of Rs. 2,43,41,205.31 and, on examining the bills and Form 11 declarations, determined tax of Rs. 4,76,992.50 at 5 percent on M.S. patties sold for Rs. 95,39,850 against Form 11. It also invoked Section 4(7)(d) of the VAT Act in respect of sales of Rs. 93,35,202/- to M/s B.T.C. Industries Ltd. and raised an additional demand of Rs. 5,60,112/- , being three times the tax allegedly saved. After applying Section 51(8)(b), giving credit for the deposit of Rs. 1,00,000/- and allowing input tax credit of Rs. 15,40,901.01, the net outstanding demand was fixed at Rs. 1,36,271/-.

12. In First Appeal No. 45/2024, the First Appellate Authority held that a second remand was barred by the third proviso to Section 51(8) of the VAT Act, as made applicable to CST proceedings. It therefore decided the matter on merits and, on examining the annual return, trading account, balance sheet and other records, accepted inter-State sales of Rs. 53,26,365/- against Form C No. 12155807800317 covering Rs. 53,79,628/-, taxed the same at 2 percent, determined CST liability at Rs. 1,06,527/-, and fixed the net balance demand at Rs. 6,527/- after credit for Rs. 1,00,000/- already deposited.

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13. The dealer has filed Second Appeal No. 24 of 2025 against the VAT demand sustained in respect of the Form 11 turnover and the addition under Section 4(7)(d), while the Department has filed Second Appeal Nos. 29 and 30 of 2025 seeking restoration of the ex parte best-judgment assessments under the VAT Act and the CST Act respectively.

14. The rival appeals thus present two connected questions: **whether the Department can rely on the SIB material to restore the ex parte estimates,** and **whether the dealer is entitled to relief on the declaration-form and Section 4(7)(d) issues**. The submissions of the parties are noticed in that background.

III. SUBMISSIONS OF THE APPELLANT(S)

(A) Submissions on behalf of the Dealer — Second Appeal No. 24 of 2025

15. Shri Deepak Goyal, learned counsel for the dealer, submits that the dealer is a bona fide manufacturer, maintains the records required under the VAT Act, has filed the prescribed returns, and has duly recorded all purchases and sales in its books of account.

16. He submits that the levy of tax at 5 percent on the turnover of Rs. 95,39,850/- relating to M.S. patties sold against Form 11 is contrary to law, as valid Form 11 declarations were furnished before the First Appellate Authority. Once such declarations are produced, the statutory benefit cannot be

denied by applying the general rate unless the Department follows the prescribed procedure for questioning or disallowing the declaration forms.

17. On the addition of Rs. 5,60,112/- under Section 4(7)(d) of the VAT Act, he submits that the First Appellate Authority wrongly assumed tax saving on sales of Rs. 93,35,202/- to M/s B.T.C. Industries Ltd. merely because the dealer had also purchased misrolls from that party. According to the dealer, misrolls were purchased as raw material, VAT of Rs. 2,80,056.06 was paid thereon at 3 percent, M.S. patties were manufactured from them, and the manufactured patties were sold against Form 11 to M/s B.T.C. Industries Ltd. and other purchasers whose details were placed on record.

18. It is further submitted that the purchased misrolls and the sold M.S. patties are commercially distinct goods, and there is no statutory bar against purchasing raw material from, and selling manufactured goods to, the same registered dealer. In the absence of any finding that the transactions were not genuine, that the patties were not manufactured from the misrolls, or that the Form 11 declarations were false or invalid, the invocation of Section 4(7)(d) is said to rest on conjecture rather than on the statutory ingredients of that provision.

19. The dealer therefore prays that Second Appeal No. 24 of 2025 be allowed, that the levy of Rs. 4,76,992.50 and the addition of Rs. 5,60,112/- be set aside, and that the demand to that extent be quashed, with liberty to add, alter or amend the grounds of appeal as permissible in law.

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(B) Submissions on behalf of the Department — Second Appeal Nos. 29 and 30 of 2025

20. Smt. Shailja Pathak, learned State Representative and Deputy Commissioner (Commercial Tax), submits for the Department that the common appellate decision dated 30-12-2024 is illegal and unjust, and that the ex parte best-judgment assessment orders dated 31-08-2021 under the VAT Act and the CST Act deserve to be restored.

21. She submits that the assessment orders were based on a detailed point-wise report of the Special Investigation Branch, Rudrapur, prepared after inspection of the dealer's premises on 23-12-2015. The report, according to the Department, disclosed a pattern of suppression and bill manipulation, including sales reflected in lorry-challan data but not declared in returns, use of the same bill number for different transactions, input-tax-credit claims unsupported by corresponding sales of the selling dealer, and similar discrepancies in the succeeding year 2016-17.

22. The Department submits that the discrepancies recorded by the Special Investigation Branch establish a pattern of arbitrary billing and partial disclosure of sales. It contends that the Assessing Authority's estimates of turnover, based on the SIB material, declared results and past business activity,

were fair best-judgment estimates under Section 25(7) of the VAT Act and Section 9(2) of the CST Act.

23. It is further submitted that the First Appellate Authority did not undertake a proper point-wise examination of the SIB report and instead reduced the assessed turnover mainly on the basis of the dealer's declared trading results and declaration forms produced at the appellate stage. On that basis, the Department seeks restoration of the assessments estimating local sales at Rs. 5,50,00,000/- and inter-State sales at Rs. 80,00,00,000/-, or, in the alternative, a remand for fresh consideration.

24. The Department accordingly prays that Second Appeal Nos. 29 and 30 of 2025 be allowed, the appellate decision dated 30-12-2024 be set aside, and the assessment orders dated 31-08-2021 raising demands of Rs. 27,50,000/- under the VAT Act and Rs. 4,00,00,000/- under the CST Act be restored.

25. After setting out the affirmative grounds urged in support of the respective appeals, the rival replies may now be noticed, since they clarify the precise points of contest between the dealer and the Department.

IV. SUBMISSIONS OF THE RESPONDENT(S)

(A) Reply of the Department — in Second Appeal No. 24 of 2025

25. In reply to the dealer's appeal, the Department substantially adopts the grounds urged in Second Appeal No. 29 of 2025. It submits that the relief

already granted by the First Appellate Authority, including acceptance of Form 11 declarations and restriction of the VAT demand, is sufficient, and that the further addition under Section 4(7)(d) is justified by the alleged circular transactions with M/s B.T.C. Industries Ltd. and the discrepancies noted in the SIB report.

(B) Reply of the Dealer — in Second Appeal Nos. 29 and 30 of 2025

26. Resisting the Department's appeals, learned counsel for the dealer submits that the ex parte assessments dated 31-08-2021 were framed without independent verification of the third-party lorry-challan data or the SIB report. He further submits that the underlying challans, discrepant bills, third-party statements and related records were neither confronted to the dealer nor made part of the assessment record in a manner permitting effective rebuttal.

27. It is also submitted that several discrepancies relied upon by the SIB and repeated in the Department's appeals pertain to assessment year 2016-17, whereas the present proceedings concern assessment year 2015-16 alone. Such material, according to the dealer, could not by itself justify enhancement of the turnover for the year under appeal.

28. In relation to the CST appeal, the dealer supports the First Appellate Authority's refusal to remand the matter again. It is submitted that, once the earlier appellate remand had resulted in a fresh assessment order, the third proviso to Section 51(8) of the VAT Act barred any second remand, and the

First Appellate Authority rightly decided the appeal on merits on the basis of the available record, including the Form C declaration.

29. The dealer accordingly submits that Second Appeal Nos. 29 and 30 of 2025 filed by the Department are devoid of merit and liable to be dismissed.

30. In view of these rival stands, the statutory framework assumes significance. The relevant provisions are therefore noticed before framing the points that arise for determination.

V. STATUTORY PROVISIONS

31. Section 51(8) of the VAT Act empowers the First Appellate Authority to confirm, reduce, enhance, annul or set aside an assessment and direct fresh assessment where permissible. However, the third proviso inserted by Notification No. 103/XXXVI(3)/2016/15(1)/2016 dated 31-03-2016 bars a second remand once an earlier remand under clause (c) has resulted in a fresh order; the appeal against such fresh order must therefore be decided on merits.

32. Form 11 is the prescribed declaration supporting a selling dealer's claim to concessional treatment or exemption where specified goods are sold to a registered dealer for the notified purpose. Once a duly filled and signed Form 11 is furnished, the declaration must be given statutory effect unless, after due enquiry, it is found to be false, invalid, fraudulently obtained, or otherwise unusable in law.

33. Section 4(7)(d) of the VAT Act is a penal or quasi-penal anti-avoidance provision and can be invoked only when its statutory ingredients are strictly proved on cogent material.

34. Section 9(2) of the CST Act applies the State assessment and appellate machinery to CST proceedings, while Section 8 grants concessional tax on inter-State sales supported by a valid Form C unless the form is shown to be false, forged, fraudulently obtained, or otherwise invalid.

35. The issues framed below are therefore to be considered in light of three governing principles: the statutory bar on successive remand, the legal effect of valid declaration forms, and the strict construction required before Section 4(7)(d) can be applied.

36. On the basis of the pleadings, submissions and statutory provisions noticed above, the controversy can conveniently be resolved by formulating the following points for determination.

VI. POINTS FOR DETERMINATION

(1) Whether the ex parte best-judgment assessment of local sale of steel bars at Rs. 5,50,00,000/- (VAT Act) and of inter-State sale of steel bars at Rs. 80,00,00,000/- (CST Act), as made by the Assessing Authority, was a fair and honest estimate having a rational nexus with material on record, or whether

it was founded on surmise, suspicion and material not duly confronted to the dealer.

(2) Whether the First Appellate Authority was right in declining to order a second/successive remand of the assessment and in proceeding to decide the appeals on merits, having regard to the third proviso to Section 51(8) of the VAT Act inserted with effect from 31-03-2016.

(3) Whether the levy of tax at 5 per cent on the local sale of M.S. patties of Rs. 95,39,850/- made against Form 11, and the further addition of Rs. 5,60,112/- under Section 4(7)(d) of the VAT Act on the transactions with M/s B.T.C. Industries Ltd., can be sustained on the material on record.

(4) Whether the acceptance of the dealer's inter-State sales against Form C, and the consequent determination of tax liability at Rs. 1,06,527/- under the CST Act, calls for any interference.

(5). The above points are interlinked, but each concerns a distinct aspect of the appellate controversy. They are therefore considered separately so that the validity of the estimates, the bar against remand, the Form 11 issue, and the CST liability may be addressed in an orderly manner.

VII. DISCUSSION AND FINDINGS

37. These points may now be examined in sequence. The Department's appeals are considered first because they seek restoration of the ex parte assessments;

the dealer's objections to the VAT demand are then considered separately, followed by the CST issue.

Point No. 1 — Legality of the best-judgment assessment

38. The power to make a best-judgment assessment permits estimation, but not arbitrariness. As Hon'ble Supreme Court explained in **Raghubar Mandal Harihar Mandal v. State of Bihar, AIR 1957 SC 810; State of Kerala v. C. Velukutty, (1966) 60 ITR 239 (SC) : (1966) 17 STC 465 (SC); and Commissioner of Sales Tax, M.P. v. H.M. Esufali H.M. Abdulali, (1973) 2 SCC 137 : AIR 1973 SC 2266 : (1973) 32 STC 77,** the estimate may involve judgment and approximation, but it must remain honest, fair, and founded on relevant material bearing a reasonable nexus with the turnover to be assessed. It cannot be a purely arbitrary figure merely because the assessment is made to the best of judgment.

39. It is equally settled that material collected behind the dealer's back and proposed to be used against it must be disclosed and put to the dealer for rebuttal. In the judgements **Dhakeswari Cotton Mills Ltd. v. Commissioner of Income Tax, AIR 1955 SC 65 : (1955) 1 SCR 941; KishinchandChellaram v. Commissioner of Income Tax, (1980) 125 ITR 713 (SC) : AIR 1980 SC 2117 : (1981) 1 SCC 720; and State of Kerala v. K.T. Shaduli Grocery Dealer, (1977) 2 SCC 777 : AIR 1977 SC 1627 : (1977) 39 STC 478,** Hon'ble Supreme Court established that an assessment

cannot be founded on undisclosed material, untested third-party information, or conjecture. Even where an estimate is permissible, the material relied upon must be brought on record and the assessee must be afforded a fair opportunity to meet the adverse material used against it.

40. Tested on these principles, the ex parte assessment orders dated 31-08-2021 cannot be sustained. The record does not show that the underlying lorry challans, disputed bills, third-party statements or other material referred to in the SIB report were confronted to the dealer point-wise with an effective opportunity of rebuttal. Further, several instances relied upon relate to assessment year 2016-17 and could not, without independent linkage, justify enhancement of turnover for assessment year 2015-16.

41. The few instances relatable to assessment year 2015-16, including the alleged unrecorded sale under Bill No. 262 dated 05-02-2016 and the alleged double use of Bill No. 256, were relevant for consideration and were available to the First Appellate Authority. They did not, however, provide a rational basis for estimating local sales at Rs. 5,50,00,000/- and inter-State sales at Rs. 80,00,00,000/-, figures which are disproportionate to the declared turnover and to the quantified discrepancies on record.

42. **Point No. 1 is accordingly answered against the Department**. The ex parte best-judgment estimates of Rs. 5,50,00,000/- for local sales and Rs. 80,00,00,000/- for inter-State sales were not fair and honest estimates

having a rational nexus with the material on record, and therefore cannot be restored.

Point No. 2 — Bar against successive remand under the third proviso to Section 51(8)

43. The Department's alternative prayer for remand cannot be accepted. The present assessment proceedings themselves arise from an earlier appellate remand: the original ex parte assessment dated 23-08-2018 was set aside and the matter was remanded under Section 51(8)(c), pursuant to which the Assessing Authority passed the fresh ex parte orders dated 31-08-2021. The third proviso to Section 51(8), inserted by Notification No. 103/XXXVI(3)/2016/15(1)/2016 dated 31-03-2016, expressly bars any further remand after such a fresh order has been passed. The appeals against the fresh orders were therefore required to be decided on merits.

44. The rule is consistent with the settled principle that where a statute prescribes a manner for doing an act, it must be done in that manner alone. In **Nazir Ahmad v. King-Emperor, AIR 1936 PC 253**, the Privy Council stated that where a power is given to do a certain thing in a certain way, "the thing must be done in that way or not at all", and other methods of performance are necessarily forbidden. The Hon'ble Supreme Court also established same principle **in State of Uttar Pradesh v. Singhara Singh, AIR 1964 SC 358 :**

(1964) 4 SCR 485, that an express statutory restriction on appellate power cannot be avoided by resort to general or incidental powers.

45. A taxing statute must likewise be construed strictly on its plain language. In Cape Brandy Syndicate v. Inland Revenue Commissioners, [1921] 1 KB 64 : 12 TC 358, Rowlatt J. stated: "In a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax." The same strict approach is reflected in The Hon'ble Supreme Court Judgements **A.V. Fernandez v. State of Kerala, AIR 1957 SC 657 : 1957 SCR 837, and Commissioner of Income Tax v. Vegetable Products Ltd., (1973) 88 ITR 192 (SC) : AIR 1973 SC 927 : (1973) 1 SCC 442.** As the third proviso to Section 51(8) admits of no ambiguity, neither the First Appellate Authority nor this Tribunal could direct a second remand after the earlier remand had already resulted in fresh assessment orders.

46. Incidental appellate powers exist only to make the principal appellate power effective, and cannot override an express statutory bar. The Hon'ble Supreme Court that principle recognised in **Income Tax Officer, Cannanore v. M.K. Mohammed Kunhi, (1969) 71 ITR 815 (SC) : AIR 1969 SC 430 : (1969) 2 SCR 65,** therefore does not assist the Department, because the power of remand stood specifically restricted by the third proviso to Section 51(8).

47. The First Appellate Authority therefore rightly declined a second remand

and proceeded to decide the appeals on the material before it. **Point No. 2 is answered against the Department.**

Point No. 3 — Form 11 sales and the addition under Section 4(7)(d) of the VAT Act

48. The dealer's first grievance in Second Appeal No. 24 of 2025 concerns the levy of tax at 5 percent on local sales of M.S. patties worth Rs. 95,39,850/- made against Form 11. Since the Form 11 declarations were admittedly produced before, and noticed by, the First Appellate Authority, the issue is whether their statutory benefit could be denied without any finding that the forms were false, invalid or otherwise unusable in law.

49. The law supports the selling dealer where a valid declaration form is furnished. Hon'ble Supreme Court in **State of Madras v. Radio & Electricals Ltd., AIR 1967 SC 234 : (1966) 18 STC 222 (SC),** recognises that a selling dealer who receives a declaration that is valid on its face and corresponds to the purchasing dealer's registration is ordinarily entitled to the statutory concessional treatment. The benefit cannot be denied merely on suspicion about the purchaser's subsequent use of the goods; the Revenue must establish fraud, misuse, invalidity, or other legal disqualification by specific enquiry and findings.

50. In the present case, there is no finding that the Form 11 declarations relating to sales of Rs. 95,39,850/- were false, forged, fabricated, invalid, or

issued by an unregistered purchasing dealer. The levy of tax at the general rate of 5 percent on this turnover, resulting in a demand of Rs. 4,76,992.50, therefore cannot be sustained.

51. The dealer's second grievance concerns the addition of Rs. 5,60,112/- under Section 4(7)(d), being three times the tax allegedly saved on sales of Rs. 93,35,202/- to M/s B.T.C. Industries Ltd. As this provision imposes a penal or quasi-penal consequence, it must be strictly construed and applied only when every statutory ingredient is established. In **Hindustan Steel Ltd. v. State of Orissa, (1969) 2 SCC 627 : AIR 1970 SC 253 : (1970) 25 STC 211 (SC),** the Hon'ble Supreme Court held that penalty will not ordinarily be imposed unless the party acted deliberately in defiance of law, was guilty of conduct "contumacious or dishonest", or acted in conscious disregard of its obligation. **"Union of India v. Rajasthan Spinning & Weaving Mills, (2009) 13 SCC 448,"** similarly requires penal liability to rest on the statutory conditions and cogent findings, not on suspicion or possible tax-saving inference.

52. The material on record does not satisfy that test. The dealer's explanation that misrolls were purchased as raw material from M/s B.T.C. Industries Ltd., converted into M.S. patties, and there after sold as manufactured goods against Form 11 has not been disproved. There is no finding that the goods sold were the same as the goods purchased, that the manufacturing process was fictitious, or that the declaration forms were invalid. The mere fact that the raw-material

supplier was also one of the purchasers of the finished product is insufficient to invoke Section 4(7)(d).

53. The dealer paid VAT of Rs. 2,80,056.06 at 3 percent on its purchase of misrolls from M/s B.T.C. Industries Ltd., and the later sale of manufactured patties was supported by Form 11 declarations. In the absence of any finding that those declarations were false or that the transaction was a colourable device, a punitive threefold demand cannot be imposed merely because the raw-material supplier was also one purchaser of the finished goods.

54. **Point No. 3 is accordingly answered in favour of the dealer.** The levy of Rs. 4,76,992.50 on the Form 11 sale of M.S. patties and the addition of Rs. 5,60,112 under Section 4(7)(d) of the VAT Act are unsustainable and are liable to be set aside.

Point No. 4 — Inter-State sales against Form C and the CST demand

55. On the CST issue, the First Appellate Authority accepted inter-State sales of Rs. 53,26,365/- supported by Form C No. 12155807800317 covering Rs. 53,79,628/- and taxed the turnover at 2 percent, determining liability at Rs. 1,06,527/- with a net balance demand of Rs. 6,527/- after credit for tax already deposited. Since the Department has not shown the Form C to be false, forged, fraudulently obtained or otherwise invalid, and since restoration of the ex parte estimate of Rs. 80,00,00,000/- has already been rejected, no interference is called for.

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54. **Point No. 4 is accordingly answered against the Department**. The CST liability determined at Rs. 1,06,527/- on the basis of the Form C declaration on record is affirmed.

VII. ORDER

56. For the reasons recorded above, Second Appeal Nos. 29 and 30 of 2025 filed by the Department are hereby dismissed, and Second Appeal No. 24 of 2025 filed by the dealer is allowed. The levy of Rs. 4,76,992.50 and the addition of Rs. 5,60,112/- under Section 4(7)(d) of the VAT Act are set aside. The appellate decision dated 30-12-2024 under the CST Act, including the CST liability of Rs. 1,06,527/- and net demand of Rs. 6,527/-, is affirmed. The Assessing Authority shall make consequential re-computation under the VAT Act, give admissible credit, and communicate the revised demand, if any, within eight weeks from receipt of a certified copy of this order.

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57. A copy of this common judgment shall be placed on the records of Second Appeal Nos. 29 of 2025 and 30 of 2025, while the original shall remain on the record of Second Appeal No. 24 of 2025.

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Member,
Commercial Tax Tribunal,
Uttarakhand

S/D-26-09-2026
(Gurubaksh Singh)
Chairman,
Commercial Tax Tribunal,
Uttarakhand

Date: 26-09-2026
Place: Haldwani

अपील प्रेषण संख्या.....165.....
दिनांक.....29/09/2026.....
न्यायिक सदस्य वाणिज्य कर अधिकरण
उत्तराखण्ड हल्द्वानी पीठ

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