THE COMMERCIAL TAX TRIBUNAL, UTTARAKHAND

(Single Member Bench) HALDWANI

Present:

Hon'ble Shri Rakesh Verma, Member

SECOND APPEAL NO. 63 OF 2025

(Assessment Year 2000-01)

Arising out of proceedings under Section 3(B) of the U.P. Trade Tax Act, 1948, as applicable to the State of Uttarakhand

Commissioner, State Tax, Uttarakhand

...Appellant (Department)

Versus

M/s Kumaon Mandal Vikas Nigam Ltd., Nainital

...Respondent (Dealer)

For the Appellant (Department): Smt. Hemlata Shukla, Deputy Commissioner and State Representative, State Tax.

For the Respondent (Dealer): Sri Akshay Agarwal, Advocate.

JUDGMENT

I. INTRODUCTION

1. The present Second Appeal has been preferred by the Commissioner, State Tax, Uttarakhand (hereinafter referred to as "the Department") under Section 53 of the Uttarakhand Value Added Tax Act, 2005 (hereinafter referred to as "the Act"), challenging the order dated 17.03.2025 passed by the learned Joint Commissioner (Appeals), State Tax, Haldwani

(hereinafter referred to as "the First Appellate Authority") in First Appeal No. 285/2006 for the Assessment Year 2000-01. By the said order, the First Appellate Authority allowed the appeal filed by M/s Kumaon Mandal Vikas Nigam Ltd., Nainital (hereinafter referred to as "the dealer"/"the respondent") and set aside the assessment order dated 20.09.2006 passed by the Assessing Authority under Section 3(B) of the U.P. Trade Tax Act, 1948, as applicable to the State of Uttarakhand. The Second Appeal was filed on 05.07.2025 and concerns a disputed tax demand of Rs. 5,574/- (Rupees five thousand five hundred seventy-four only).

2. Although the tax amount involved is small, the appeal raises an issue of recurring significance under the trade tax/VAT regime. The question is whether a dealer holding a recognition/registration certificate authorising concessional purchase of raw material, processing material and allied goods, including fuel required for manufacture, can be treated as having furnished a "wrong declaration" and thereby made liable under Section 3(B) of the Act merely because the particular fuel purchased—firewood (jalaunilakdi)—is not separately or expressly named in the recognition certificate.

3. In this Second Appeal, this Tribunal is required to examine the facts, documents and applicable legal provisions independently, being the final

fact-finding authority under the Act. However, such jurisdiction is to be exercised with due restraint. Where the First Appellate Authority has taken a view that is reasonably possible on the material available and is consistent with law, interference is not warranted merely because another view may also be conceivable. The present appeal is therefore considered in that legal perspective.

II. FACTS OF THE CASE

4. The respondent, M/s Kumaon Mandal Vikas Nigam Ltd., Nainital, is a Government of Uttarakhand undertaking engaged, among other activities, in the manufacture and sale of goods. It is registered under the relevant tax law and holds a recognition certificate under the Act, permitting it to purchase raw material, processing material and allied goods required for its manufacturing activity at the concessional rate of tax against declarations in Form III-B/Form 3-Kha.

5. During Assessment Year 2000-01, the dealer purchased firewood (jalaunilakdi) worth Rs. 2,22,949/- from U.P./Uttarakhand Forest Corporation (Van Nigam), Tanakpur. The said purchases were made against two Form III-B declarations bearing Nos. 103507 and 103506, and the dealer accordingly availed the concessional rate of tax on those purchases.

6. The Assessing Authority, by order dated 20.09.2006 passed under Section 3(B) of the Act, held that the dealer's recognition certificate did not specifically authorise purchase of firewood at the concessional rate. Proceeding on that basis, the Assessing Authority treated the issuance of Form III-B for purchase of firewood as furnishing of a "wrong declaration" and levied Rs. 5,574/-, being 2.5% of the value of the firewood purchased and representing the tax allegedly saved by the dealer.

7. In reply to the show-cause notice, the dealer asserted that its recognition certificate covered, in addition to other raw materials, coal and wood used in the manufacture of its goods. The dealer also referred to its letter dated 25.08.2018 and the accompanying statements concerning goods purchased for plant and machinery, maintenance, production and packing purposes. The Assessing Authority, however, observed that those statements did not expressly mention wood, coal or "fuel", and on that reasoning concluded that the dealer had not furnished a valid declaration for purchase of coal/firewood and that the concessional purchase of firewood was unauthorised.

8. Aggrieved by the assessment order dated 20.09.2006, the dealer filed First Appeal No. 285/2006 before the learned Joint Commissioner (Appeals), State Tax, Haldwani. By order dated 17.03.2025, the First Appellate

Authority allowed the appeal and set aside the levy of Rs. 5,574/-. In doing so, the appellate authority placed reliance principally on Circular No. 812 dated 30.05.1994 issued by the Additional Commissioner (Legal), Trade Tax, Headquarters, Lucknow, U.P., which clarified that, with effect from 01.06.1994, every dealer holding a valid recognition certificate was entitled to purchase raw material, processing material, packing material, machinery, plant, equipment, spare parts, ancillary goods, components, fuel or lubricant required for manufacture or for packing of manufactured goods at the uniform concessional rate of 2%. Treating firewood used as fuel as falling within the said category, the First Appellate Authority held that the levy under Section 3(B) could not be sustained.

9. The Department has therefore preferred the present Second Appeal against the appellate order dated 17.03.2025, contending that the First Appellate Authority erred in setting aside the levy and praying that the appellate order be reversed and the assessment order dated 20.09.2006 be restored.

III. SUBMISSIONS ON BEHALF OF THE APPELLANT (DEPARTMENT)

10. Smt. Hemlata Shukla, learned Deputy Commissioner and State Representative appearing for the Department, supported the grounds urged in the memorandum of Second Appeal. She submitted, in substance, that

the order passed by the First Appellate Authority suffers from error both on facts and in law, and that the assessment order dated 20.09.2006 was rightly passed under Section 3(B) of the Act.

11. According to the Department, the appellate order dated 17.03.2025 is erroneous, illegal and contrary to the material available on record. It was argued that the First Appellate Authority failed to appreciate the limited scope of the dealer's recognition certificate and incorrectly extended the benefit of concessional purchase to an item not specifically covered by that certificate.

12. It was further contended that the dealer's recognition certificate did not expressly authorise purchase of firewood/jalaunilakdi at the concessional rate of tax. Therefore, by issuing Form III-B/Form 3-Kha declarations bearing Nos. 103507 and 103506 for purchase of firewood, the dealer acted beyond the terms of the certificate, furnished a wrong declaration and attracted liability under Section 3(B) of the Act.

13. The Department also relied upon the statements and documents filed by the dealer, including the letter dated 25.08.2018, and submitted that those documents did not mention wood, coal or fuel as goods required for the dealer's manufacturing process. The documents, according to the Department, referred only to purchases relating to plant and machinery,

maintenance, packing material and production-centre requirements. On that basis, it was urged that the dealer had never furnished any valid declaration showing use of coal/firewood in manufacture under Section 4-B, and that the certificate could not be enlarged by implication to include firewood.

14. With respect to Circular No. 812 dated 30.05.1994, the Department submitted that the said circular is only a general clarification regarding the concessional rate applicable to goods already covered by a valid recognition certificate. It was argued that the circular does not enlarge, amend or override the contents of an individual dealer's certificate. Since firewood was not specifically included in the respondent's certificate, the Department contended that the First Appellate Authority erred in applying the circular to the facts of the present case.

15. On these submissions, the Department prayed that the appellate order dated 17.03.2025 be set aside and the assessment order dated 20.09.2006 be restored, with the levy of Rs. 5,574/- under Section 3(B) of the Act being upheld as legal and proper.

IV. SUBMISSIONS ON BEHALF OF THE RESPONDENT (DEALER)

16. Sri Akshay Agarwal, learned counsel appearing for the respondent-dealer, supported the order of the First Appellate Authority and submitted

that the levy under Section 3(B) was rightly set aside. His submissions may be summarised as follows.

17. The dealer holds a valid recognition certificate permitting concessional purchase of raw material and allied goods required for its manufacturing activity, including coal and wood used for that purpose. The firewood purchased from Van Nigam, Tanakpur, was used as fuel in the dealer's manufacturing/processing activity and therefore fell within the class of goods covered by the certificate.

18. It was submitted that "fuel" is recognised under the statutory scheme, as well as by binding judicial precedent, as goods required for use in or in connection with manufacture. Firewood, being used as fuel, is consequently covered by that broader description, even if the word "firewood" is not reproduced verbatim in the recognition certificate.

19. Learned counsel further relied upon Circular No. 812 dated 30.05.1994 issued by the Additional Commissioner (Legal), Trade Tax, U.P. The circular expressly extends the concessional rate to purchases of fuel by every dealer holding a valid recognition certificate with effect from 01.06.1994. Being a beneficial and statutory-consistent departmental clarification, it was argued, the circular binds the Department, which cannot take a contrary stand before this Tribunal.

20. It was also urged that, once a recognition certificate has been granted after enquiry by the competent authority and continues to remain valid, the Assessing Authority cannot, at the assessment stage, reopen the question of the dealer's need for the goods or the bona fides of their purchase. The enquiry at that stage is limited to whether the certificate is genuine and whether the goods purchased fairly fall within the class of goods covered by it.

21. Learned counsel emphasised that neither the assessment order nor the grounds of Second Appeal contain any finding that the dealer acted dishonestly, deliberately violated the law, or diverted the firewood for any purpose other than its own manufacturing activity. In the absence of such a finding, the additional levy under Section 3(B), being penal or quasi-penal in character, could not lawfully be sustained.

22. On the above premises, it was submitted that the First Appellate Authority correctly set aside the assessment order dated 20.09.2006 and the levy of Rs. 5,574/-. The respondent accordingly prayed that the Department's Second Appeal be dismissed as devoid of merit.

V. STATUTORY PROVISIONS

23. The controversy turns on the scope of concessional purchase under the recognition-certificate scheme and the consequence of an allegedly wrong declaration.

24. Section 4-B of the U.P. Trade Tax Act, 1948 permits a dealer holding a valid recognition certificate to purchase specified goods required for manufacture or packing at a concessional rate against Form III-B/Form 3-Kha. The covered categories include raw material, processing material, packing material, machinery, plant, equipment, spare parts, components, fuel and lubricants.

25. Section 3(B) createsliability where a purchasing dealer furnishes a false, wrong or incorrect declaration and thereby obtains goods at a lower tax rate. The liability is limited to the tax saved because of such declaration.

26. Section 53 of the Uttarakhand Value Added Tax Act, 2005 provides the statutory remedy of second appeal before this Tribunal against an order passed in first appeal.

27. Circular No. 812 dated 30.05.1994 clarifies that, from 01.06.1994, a dealer holding a valid recognition certificate may purchase, at the uniform concessional rate of 2%, goods required for manufacture or packing, including fuel and lubricants.

28. The scheme is intended to prevent cascading tax on manufacturing inputs. Therefore, once eligibility is established, goods reasonably falling within an approved category, such as fuel, should not be excluded merely because the exact commodity name is not repeated in the certificate.

VI. POINTS FOR DETERMINATION

29. Having regard to the rival submissions, the material placed on record, and the statutory framework noticed above, the following points arise for determination in the present Second Appeal:

(i) Whether firewood (jalaunilakdi) purchased by the dealer for use as fuel in its manufacturing activity falls within the scope of goods covered by the dealer's recognition certificate, notwithstanding that the word "firewood" does not appear verbatim therein?

(ii) Whether Circular No. 812 dated 30.05.1994 is applicable to, and covers, the purchase of firewood made by the dealer, and whether the said circular is binding on the Department in these proceedings?

(iii) Whether, on the facts and circumstances of the case, the dealer can be said to have furnished a "wrong declaration" so as to attract levy under Section 3(B) of the Act?

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(Rakesh Verma)

(iv) Whether the order dated 17.03.2025 passed by the First Appellate Authority calls for any interference in this Second Appeal?

VII. DISCUSSION AND FINDING

30. This Tribunal has heard the learned representatives for the parties and has perused the record with care. The assessment order dated 20.09.2006, the appellate order dated 17.03.2025, the memorandum of Second Appeal, the recognition-certificate material, the declarations furnished by the dealer, Circular No. 812 dated 30.05.1994, and the judicial authorities relied upon by both sides have all been considered.

Point No. (i): Whether firewood, used as fuel, falls within the scope of the recognition certificate

31. The Department's principal objection is that firewood is not expressly mentioned in the dealer's recognition certificate and, for that reason alone, the concessional purchase was unauthorised. This Tribunal is not persuaded by such a restrictive construction. The determinative question is not whether the exact expression "firewood" appears in the certificate, but whether the commodity purchased, having regard to its actual use, falls within a recognised class of goods covered by the certificate and by the statutory scheme governing goods used in, or in connection with, manufacture.

Appellate

32. The principle is well settled by the decision of the Hon'ble Supreme Court in *J.K. Cotton Spinning & Weaving Mills Co. Ltd. v. Sales Tax Officer, Kanpur*, AIR 1965 SC 1310 : (1965) 16 STC 563. While construing a comparable provision under the Central Sales Tax Act, the Court held that goods used in manufacture are not limited to those that are physically incorporated into the finished product. The expression extends to all goods integrally connected with the manufacturing process, including raw material, processing material, machinery, plant, equipment, stores, spare parts, accessories, **fuel** and lubricants. The controlling test is therefore one of functional nexus: whether the goods are used in, or are reasonably and integrally connected with, the process of manufacture.

33. Tested on that principle, firewood used by the dealer as fuel in its manufacturing or processing activity squarely falls within the recognised category of "fuel". The Department has neither alleged nor proved that the firewood was diverted to any non-manufacturing use. Its objection rests only on the absence of the specific word "firewood" in the recognition certificate. Such a purely formal objection cannot defeat the substance of the statutory scheme when the commodity, by its nature and use, answers the broader description of fuel required for manufacture.

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Point No. (ii)

30.05

34. It is equally significant that a recognition certificate is granted after consideration by the competent authority and is not a matter of mere formality. Before issuing such a certificate, the authority is required to satisfy itself regarding the nature of the dealer's business and the goods reasonably required for the stated manufacturing purpose. In *State of Madras v. Radio & Electricals Ltd.*, AIR 1967 SC 234 : (1966) 18 STC 222, the Hon'ble Supreme Court emphasised that the issuing authority must undertake that satisfaction before granting the certificate. Once the certificate remains valid and unrevoked, the Assessing Authority cannot ordinarily reopen that enquiry at the assessment stage or deny effect to the certificate on an unduly narrow interpretation of the classes of goods covered by it.

35. Accordingly, where the dealer's certificate is fairly read as covering raw material and allied goods, including coal/wood or fuel used for manufacturing purposes, firewood used as an alternative or supplementary fuel cannot be excluded merely because it is not separately named. A hyper-technical, word-for-word reading would defeat the object of the recognition-certificate scheme. Point No. (i) is therefore answered in favour of the dealer and against the Department.

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Point No. (ii): Applicability and binding nature of Circular No. 812 dated 30.05.1994

36. Circular No. 812 dated 30.05.1994, relied upon by the First Appellate Authority, reinforces the same conclusion. The circular clarifies that, with effect from 01.06.1994, every dealer holding a valid recognition certificate is entitled to purchase raw material, processing material, machinery, plant, equipment, spare parts, ancillary goods, components, fueland lubricants required for use in manufacture, or for the packing of manufactured goods, at the uniform concessional rate of 2%. The circular expressly includes fuel as an eligible category. Firewood, when purchased and used as fuel, therefore falls within the plain scope of the clarification.

37. The Department's contention that the circular cannot enlarge an individual recognition certificate does not advance its case. The circular is beneficial in nature and is not shown to be contrary to the statute. Such circulars bind the Department and its authorities, and the Revenue cannot adopt a stand inconsistent with its own clarification. The Hon'ble Supreme Court in*Ranadey Micronutrients v. Collector of Central Excise*, (1996) 10 SCC 387, and *Paper Products Ltd. v. Commissioner of Central Excise*, (1999) 7 SCC 84, reiterated that departmental circulars are binding on the Department and that uniformity and discipline in tax administration require the Department to act consistently with them.

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38. The principle is further supported by *State of U.P. v. P.N.C. Construction Co. Ltd.*, (2007) 7 SCC 320, where the issue arose under Section 4-B of the U.P. Trade Tax Act, 1948 in relation to goods, including fuel items, covered by a recognition certificate. The Hon'ble Supreme Court approved the view that a departmental circular cannot be relied upon to curtail or take away the benefit flowing from a valid and subsisting recognition certificate. By the same reasoning, Circular No. 812, being beneficial and clarificatory, must be given full effect in favour of the dealer and cannot be diluted by the Department at the assessment or appellate stage.

39. The Department's further submission that exemption or concession provisions must be construed strictly does not alter the conclusion in the present case. The distinction drawn by the Hon'ble Supreme Court in *Union of India v. Wood Papers Ltd.*, (1990) 4 SCC 256, is directly relevant. At the threshold, a concession provision is construed strictly to determine whether the assessee is eligible at all. Once eligibility is established, however, the provision is to be applied in a manner that advances its object. Here, the dealer's eligibility is not in dispute, as it held a valid recognition certificate. The issue is only whether firewood used as fuel falls within the eligible class of goods. That question must be answered by giving the certificate, the statute and the beneficial circular a fair and purposive construction.

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40. Point No. (ii) is accordingly answered in favour of the dealer and against the Department. The First Appellate Authority committed no error in relying upon Circular No. 812 dated 30.05.1994 for holding that firewood, when purchased and used as fuel in the manufacturing activity, was eligible for concessional purchase.

Point No. (iii): Whether the dealer furnished a "wrong declaration" attracting Section 3(B)

41. Section 3(B) of the Act fastens liability where a purchasing dealer furnishes a false, wrong or incorrect declaration, resulting in tax being paid at a rate lower than that otherwise chargeable. Such a consequence, being penal or at least quasi-penal in character, cannot be imposed as a matter of course merely because the Department later advances a narrower interpretation of the recognition certificate. The principle laid down by the Hon'ble Supreme Court in *Hindustan Steel Ltd. v. State of Orissa*, AIR 1970 SC 253, is apposite: a liability of this nature is not ordinarily attracted in the absence of deliberate defiance of law, contumacious or dishonest conduct, or conscious disregard of statutory obligation. A merely technical or bona fide difference of interpretation is not sufficient.

42. In the present case, there is no finding that the dealer acted dishonestly, diverted the firewood for any non-manufacturing purpose, or issued Form

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III-B declarations with knowledge that they were incorrect. On the contrary, the dealer's understanding that coal/wood or firewood used as fuel was covered by its recognition certificate was both bona fide and legally sustainable, particularly in the light of Circular No. 812 dated 30.05.1994. The declarations furnished by the dealer, therefore, cannot be characterised as "wrong declarations" within the meaning of Section 3(B).

43. The Assessing Authority also placed undue emphasis on the dealer's letter dated 25.08.2018 and the accompanying statements, observing that they did not separately mention wood, coal or fuel. That approach was misplaced. The scope of the dealer's entitlement had to be examined with reference to the recognition certificate, the statutory scheme and the applicable departmental circular. An incidental explanatory statement, furnished long after the relevant assessment year, could not be treated as decisive for denying a benefit otherwise available under law. The First Appellate Authority rightly corrected this error.

44. It follows that the levy of Rs. 5,574/- under Section 3(B) was not legally sustainable. Point No. (iii) is therefore answered against the Department and in favour of the dealer.

Point No. (iv): Whether the appellate order dated 17.03.2025 calls for interference

45. In view of the findings on Points (i) to (iii), the appellate order dated 17.03.2025 suffers from no legal infirmity. The First Appellate Authority correctly applied the recognition-certificate scheme, Circular No. 812 dated 30.05.1994, and Section 3(B) of the Act.

46. No error of law, perversity or jurisdictional defect is made out. Point No. (iv) is accordingly answered against the Department and in favour of the dealer.

VIII. ORDER

47. For the reasons recorded above, Second Appeal No. 63 of 2025 filed by the Commissioner, State Tax, Uttarakhand is **dismissed**. The order dated 17.03.2025 passed by the learned Joint Commissioner (Appeals), State Tax, Haldwani in First Appeal No. 285/2006 is **affirmed**. The levy of Rs. 5,574/- under Section 3(B) of the Act shall not survive against the respondent-dealer.

S/D-
Rakesh Verma
Member
Commercial Tax Tribunal, Uttarakhand,
Haldwani
Date: 26-09-2026
Place- Haldwani

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29/09/2026