

Neutral Citation No. - 2025:AHC:136552

Reserved on 29.07.2025

Delivered on 12.08.2025

Court No. - 7

Case :- SALES/TRADE TAX REVISION No. - 225 of 2022

Revisionist :- The Commissioner Commercial Tax U.P. Lucknow

Opposite Party :- M/S J.S. Jain Agro Industries Pvt Ltd

Counsel for Revisionist :- R.S. Pandey, A.C.S.C.

Counsel for Opposite Party :- Suyash Agarwal

WITH

Case :- SALES/TRADE TAX REVISION No. - 165 of 2021

Revisionist :- The Commissioner Commercial Tax U.P. Lucknow

Opposite Party :- S/S Carrier Wheels

Counsel for Revisionist :- R.S. Pandey, A.C.S.C.

Counsel for Opposite Party :- Aditya Pandey

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Sri R.S. Pandey, learned Additional Chief Standing Counsel for the revisionist-State and Sri R.R. Agrawal, learned Senior Counsel assisted by Shri Nitin Keserwani and Shri Aditya Pandey, learned counsel for the opposite party.
2. Since the similar issue is involved in both the aforesaid revisions, the same are being decided together by this common judgment.
3. For the convenience, the facts of STRE No.225/2022 are being delineated here:
4. By means of this revision, the revisionist has challenged the order dated 04.03.2022 passed by the Commercial Tax Tribunal, Muzaffarnagar Bench, Muzaffarnagar in Appeal No.19/2022 for the F.Y. 2016-17, under Section 9(4).

5. The present revision was admitted by this Court vide its order dated 06.07.2022 on the questions of law as framed in the memo of revision.
6. Shri R.S. Pandey, learned A.C.S.C. submits that the opposite party has shown the purchase of H.R. Coils after job work, and the same was brought in the State of Uttar Pradesh, on which, entry tax including cost of expenses on it has been levied while passing the assessment order, and the said order was confirmed by the first appellate authority, which has wrongly been allowed by the impugned order, which is bad. He further submits that H.R. Coils were cut to size, therefore, nature of purchased goods got changed.
7. In support of his submission, Shri Pandey has placed reliance upon the judgment of the Hon'ble Apex Court passed in the case of *Ashirvad Ispat Udyog & Ors. Vs. State Level Committee & Ors., decided on 03.11.2019.*
8. He further submits that after purchase of H.R. Coils, the same was cut into small pieces, which is a different commodity and therefore, it is liable for entry tax.
9. *Per contra*, Shri R.R. Agrawal, learned Senior Counsel submits that the H.R. Coils is exempted from payment of entry tax and therefore, the same is not liable for payment of tax.
10. In support of his submission, he has placed reliance upon the judgment of this Court passed in the case of *Commissioner, Commercial Tax Vs. Racket Backizer India Ltd.; 2018 NTN (Vol.68) 226*, and the judgments of the Hon'ble Apex Court passed in the cases of *Commissioner of Sales Tax, U.P. Vs. Lal Kunwa Stone Crusher (p) Ltd., (2000) 3 Supreme Court Cases 525; Commissioner of C.EX. Mumbai Vs. Rajpurohit GMP India Ltd., 2008 (231) E.L.T. 577 (S.C.)* and submits that no new commercial commodity come into shape.

11. He further submits that the cutting of H.R. Coils into small specific sizes do not amount to manufacturing of a new or different or a distinguished article having distinguishable name, and character emerges beyond the process.
12. He further submits that the aforesaid judgments have been confirmed.
13. After hearing the parties, the Court has perused the records.
14. Learned A.C.S.C. has not disputed that the H.R. Coils were purchased, which is exempted from payment of entry tax under the relevant notification.
15. Further, the record shows that the H.R. Coils was purchased and the same was sent for job work having cut the same into specific sizes, which alleged by the State of U.P. that it is a different commodity, which is liable for payment of entry tax, but neither any material has been brought on record nor any evidence showing that by cutting to a small specific size of H.R. Coils, distinguishable character or new commodity came in existence.
16. The Delhi High Court in the Case of ***Faridabad Iron & Steel Traders Association Vs. Union of India*** in para nos. 86, 94 & 96 has held as under:

“86. Reverting to the facts of this case, Steel coil is basically sheet in running length. When it is produced by the manufacturer's at their end and when it is folded for the case of transportation, it has been named as coil but when it is unfolded either at the manufacturers' end or at any other end it remains as sheet. The sheets in running length cannot be brought to the destination without folding it and when it is folded by the manufacturer, it is sheet in coil form and unfolded it is sheet as such and accordingly there is no difference in the steel sheets in coil form or cut straight to the specific sizes. The coils in running length are produced to save transportation cost and to

minimize the wastage as during the cutting of the steel coils.

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94. The impugned Circular was issued by the executive and sent to all Chief Commissioners of Central Excise, all Director General of Central Excise, all Commissioners of Central Excise (Appeals) and all Commissioners of Central Excise. Some of these bodies discharge quasi judicial functions. It is the settled position of law that quasi judicial functions cannot be controlled by executive actions by issuing circulars. It is totally impermissible. According to the spirit of Section 37B circulars or directions can be issued in order to achieve the object of uniformity and to avoid discrimination. Such circulars bind the officers only when they act in their administrative capacity. It must be clearly understood that the Board's circulars instructions or directions cannot in any manner interfere with quasi judicial powers of the Assessing Officers. Officials exercising quasi judicial powers must ignore any circular or direction interfering with their quasi judicial functions.

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96. The power to impose tax is essentially a legislative function and according to our constitutional scheme it cannot be delegated. The Excise Duty which the legislature intends to impose must be imposed directly in accordance with law. By issuing the impugned circular the respondent cannot introduce revenue legislation indirectly. The impugned circular also deserves to be quashed on this ground also."

17. The said judgment has been confirmed by the Hon'ble Apex Court. Further, the Hon'ble Apex court in the of ***Lal Kuwan Crusher (p)*** (*supra*) has specifically held that the gitti, Bolders etc. which is converted into small stone does not amount to emerges into a different commodity.

18. Similar view has been taken by the Hon'ble Apex Court in the case ***Rajpurohit GMP India Ltd.,(supra)*** in para no.5 has held as under;

“5.Shri Vikas Shrama learned counsel appearing on behalf of the Department, however, contended before us that in the present case the show cause notice alleges that sheets of various sizes which emerged after the slitting process were again die-punched on the press machine and the die-punched pieces were sealed by heat leaving three sides open which, according to the learned counsel, amounted to manufacture. It was urged that this aspect needs to be remitted by this Court to the Adjudicating Authority for fresh consideration. We find no merit in this argument for the simple reason that in these cases we are concerned with the period up to 2001. At that time the previous Circular dated 7th September, 2001 held the field. That Circular was applied for the past period. That Circular essentially proceeded on the basis of interpretation of the tariff items and not on examination of the entire process undertaken by the assessee. In these cases also show cause notice clearly indicates that the matter has proceeded before the Adjudicating Authority not on examination of the process undertaken by the assessee but on the basis of interpretation of the tariff items. In the show cause notice there is no allegation that the above process of die-punching amounts to manufacture, hence we are not inclined to remit the matter to the Adjudicating Authority.

As stated above, the Circular dated 7th September, 2001 stands withdrawn by the subsequent Circular dated 2nd March, 2005. Hence, we find not reason to interfere with the impugned judgment of the Tribunal in these Civil Appeals. Accordingly, this bunch of Civil Appeals stands dismissed with no order as to costs.”

19. The view has been taken by the Hon'ble Apex Court in the case of ***Ashirvad Ispat Udyog (supra)*** is not on a different fact and of no aid to the State.

20. The perusal of the same shows that the definition given under the Madhya Pradesh Act which pertains new unit, which is not the case in hand and therefore, the aforesaid judgment is no aid to the State.
21. In view of the facts as stated above as well as law laid downy by the Hon'ble Apex court, no interference is called for in the impugned order.
22. Accordingly, both the revisions fail and are hereby **dismissed**. No order as to costs.
23. The questions of law are answered in favour of the respondents.

Order Date :-12.08.2025

Pravesh Mishra/-

(PIYUSH AGRAWAL, J.)