2026:AHC:208760

HIGH COURT OF JUDICATURE AT ALLAHABAD

SALES/TRADE TAX REVISION DEFECTIVE No. - 40 of 2026

M/S Shri Shankar Ispat Private Limited

.....Revisionist(s)

Versus

Commissioner, Commercial Tax

.....Opposite Party(s)

Counsel for Revisionist(s) : Rishi Raj Kapoor
Counsel for Opposite Party(s) :

Court No. - 53

HON'BLE VIKAS BUDHWAR, J.

In Re: Civil Misc. Delay Condonation Application No. 1 of 2026
(Under Section 5 of the Indian Limitation Act)

1. The present delay condonation application accompanied with an affidavit has been filed for condonation of delay of 1822 days in preferring the revision under Section 58 of the U.P. Value Added Tax Act questioning the order dated 23.02.2021 passed by the Commercial Tax Tribunal Bench-2 Agra in Second Appeal No. 02 of 2020 and the rectified order dated 07.09.2022 passed in Misc. Application No. 04 of 2022 under Section 31 of the U.P. VAT Act passed by Commercial Tax Tribunal Bench-2 Agra. The revisionist, M/s Shri Shankar Ispat Private Limited, Kasimpur Road, Aligarh claims to be a private limited company and is registered dealer under the provisions of U.P. Value Added Tax Act, 2008 as well as under Central Sales Tax Act, 1956.

2. As per the revisionist, for the assessment year 2011-12, the revisionist had disclosed the sale of self-manufactured M.S. Bar and Angle at Rs. 1,67,35,635 and sale of M.S. Scrap and Brass at Rs. 90,83,464 totaling to Rs. 2,58,19,099 and the admitted total tax was at the rate of 4% being Rs. 10,32,764=14. A show cause notice came to be issued alleging evasion of the tax and an assessment order was passed on 30.09.2015 under Section 28 (2) of the U.P. VAT Act, 2008.

3. Aggrieved against the same, the revisionist preferred appeal before Additional Commissioner Grade-2 (Appeal) Commercial Tax, Aligarh under Section 55 of the U.P. VAT Act and the appeal came to be partially allowed

on 06.11.2017 by the Additional Commissioner Grade-2 (Appeal) while reducing the turnover and the tax. Aggrieved of the same, the respondent / revenue preferred an appeal under Section 57 of the U.P. VAT Act, 2008 before the Commercial Tax Tribunal and the said appeal so preferred by the revenue came to be rejected on 23.02.2021 affirming the order dated 06.11.2017. Against the order dated 23.02.2021 passed by the Tribunal owing to the fact that the assessment year was wrongly mentioned and typed as 2010-11 instead of 2011-12, the revisionist filed a rectification application under Section 31 of the U.P. VAT Act, 2008 which was numbered as Misc. Application No. 4 of 2022 and the Tribunal vide order dated 07.09.2022 allowed the said application and rectified the order of the Tribunal dated 23.02.2021.

4. Questioning the said order dated 07.09.2022, the present revision has been preferred.

5. Since there was a delay in filing the revision, a delay condonation application came to be filed sworn by one Shri Narendra Kumar who claims to be the authorized signatory of the revisionist company and the following was averred:

> *"1. That the deponent is authorized signatory of the Revisionist firm and, as such, he is fully acquainted with the facts deposed to herein below.*
>
> *2. That order of Tribunal dated 23.2.2021 was received by counsel of the deponent on 24.2.2021, and hence revision should be filed on or before 24.5.2021, but due to mistake in order of tribunal, hence rectification application was filed, which was allowed on 7.9.2022, and rectified order and original order was received by counsel of the applicant Shri Kishore Kumar, Advocate and after receiving the order, same was handed over to the Director of revisionist company on 15.9.2022, who has engaged Mr. Sanjeev Mohan, Advocate and handed over certified copy of tribunal orders on 25.9.2022, who advised, revisionist, to filed Trade Tax Revision in High Court and revisionist told him to proceed in filing of revision, and after that, he advised that in the month of October 2022, he will filed Trade Tax Revision, through it's counsel at Allahabad High court, and Revisionist is under belief that Revision will be filed in High Court, and when on 24.9.2025, Revisionist inquired about status of it's case, then Mr. Sanjeev Mohan, Advocate searched the order of Tribunal, but the order of the Tribunal misplaced in the office of the counsel and it could not be located and revisionist regularly inquired about status of the filing of Revision from its counsel, from 24.9.2025 to 24.3.2026, and when*

revisionist came to know that revision was not filed, then revisionist has contacted Mr. Kishore Kumar, Advocate, on 25.3.2026, who appear in hearing before Tribunal, and asked to file revision against order of tribunal, then he applied for certified copy of orders of tribunal on 1.4.2026, and the certified copy was received on 4.4.2026, after receiving the certified copy, deponent reached Allahabad and handed over the certified Recopy to it's counsel at Allahabad High court on 10.5.2026 for filing revision who after preparation now filing the revision, hence revision could not be filed within period of limitation and is now filing instant revision against order of the Tribunal dated 23.2.2021 with rectified order 7.9.2022, today after the delay of about Five years, which is not intentional or deliberate.

3. That after preparation, applicant is now filing instant revision against order of the Tribunal, today after the delay of about Five Years, which is not intentional or deliberate.

4. That, in view of the facts and circumstances stated in the accompanying revision-application, it is expedient in the interest of justice that this Hon'ble Court may pleased to condone the delay of about Five years in filing the revision."

6. The revision which was presented before this Court on 22.05.2026 as per the stamp reporter was shown to be beyond 1822 days.

7. A counter affidavit has been filed to the delay condonation application to which a rejoinder affidavit has been filed.

8. Shri Rishiraj Kapoor, learned counsel for the revisionist has submitted that the reasons were beyond control and the comprehension of the revisionist- applicant and thus the delay be condoned and the revision be heard on merits. Submission is that the order of the tribunal dated 23.02.2021 was received by the counsel of the revisionist company on 24.02.2021 and the rectification application was allowed on 07.09.2022 and the said documents were handed over to the counsel of the revisionist, Shri Kishore Kumar, Advocate and thereafter on 15.09.2022 thereafter one Mr. Sanjeev Mohan, Advocate was engaged as the counsel to file revision, certified copy of the orders were handed over on 25.09.2022 and the deponent was advised that in the month of October, 2022, Trade Tax Revision would be filed in Allahabad High Court and under such belief that the revision has been filed the revisionist company was harbouring under the impression that the revision has been filed. However, when the status of the

same was asked then Mr. Sanjeev Mohan served the order of the tribunal but the order of the tribunal was misplaced in the office and it could not be located and the revisionist regularly inquired about the status of filing of revision from 24.09.2025 to 24.03.2026 and when the revisionist came to know that the revision has not been filed then the revisionist contacted Mr. Kishore Kumar, Advocate on 25.03.2026 who had appeared on behalf of the revisionist before the tribunal and he was asked to file revision, then certified copy was applied on 01.04.2026 which was received on 04.04.2026, the papers were handed over to the counsel at Allahabad on 10.03.2026 and thus the revision has been preferred. It is prayed that the delay in filing the revision be condoned and the revision be heard on merits.

9. Countering the submissions made by the revisionist, Shri B.K. Pandey, learned Additional Chief Standing Counsel submitted that none of the grounds taken for condonation of the delay are tenable in the eyes of law. According to him, negligence is not a ground for condonation of delay as there is nothing on record to substantiate the same except bald and vague statements in that regard.

10. I have heard the submissions made across the bar and perused the record carefully.

11. Apparently, against the order of the Tribunal dated 23.02.2021, the revision is maintainable, the limitation period was upto 25.05.2021 but the same came to be filed on 21/22.05.2026 beyond 1822 days. The ground set-forth in the affidavit in support of the delay condonation application does not inspire the confidence of the Court, particularly, when only this much has been stated that the counsel who was engaged to file revision did not file the same, then another counsel came to be engaged, he also did not file and then again the earlier counsel was assigned the task to file revision. As a matter of fact, the litigant is not required to be in deep slumber as he is to be vigilant and diligent towards his rights. Meaning thereby that merely on asking the delay cannot be condoned, there has to be specific grounds explaining day to day delay. The paragraph-2 of the delay condonation application does not portray any ground so as to condone the delay. The delay is of enormous period, that too approximately 5 years.

12. It is not a case wherein the revisionist is rustic, uneducated, not aware about their rights as it is a private limited company which obviously in

common parlance engages a legal assistant as well as a lawyer so as to give them legal advice.

13. Viewing the case from the four corners of law, this Court does not find the present case to be a fit case for condoning the delay. Accordingly, the delay condonation application is **rejected**.

Order on Revision

14. It is also not the case of the revisionist that they were not aware about the order passed by the Tribunal.

October 6, 2026
Ashu

(Vikas Budhwar,J.)

Digitally signed by :-
ASHUTOSH KUMAR PRAJAPATI
High Court of Judicature at Allahabad