

**IN THE HIGH COURT OF UTTARAKHAND**  
**AT NAINITAL**

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI  
AND

HON'BLE SRI JUSTICE R.C. KHULBE

**30<sup>TH</sup> SEPTEMBER, 2022**

**COMMERCIAL TAX REVISION NO. 13 OF 2013**

Between:

M/s Akums Drugs & Pharmaceuticals Limited, through its  
Director Mr. Sanjeev Jain .....Revisionist  
and

Commissioner of Commercial Taxes,  
Uttarakhand, Dehradun. ...Respondents

**COMMERCIAL TAX REVISION NO. 14 OF 2013 (2)**

Between:

M/s Akums Drugs & Pharmaceuticals Limited, through its  
Director Mr. Sanjeev Jain .....Revisionist  
and

Commissioner of Commercial Taxes,  
Uttarakhand, Dehradun. ...Respondents

**COMMERCIAL TAX REVISION NO. 15 OF 2013 (3)**

Between:

M/s Akums Drugs & Pharmaceuticals Limited, through its  
Director Mr. Sanjeev Jain .....Revisionist  
and

Commissioner of Commercial Taxes,  
Uttarakhand, Dehradun. ...Respondents

**COMMERCIAL TAX REVISION NO. 16 OF 2013 (4)**

Between:

M/s Akums Drugs & Pharmaceuticals Limited, through its  
Director Mr. Sanjeev Jain .....Revisionist  
and

Commissioner of Commercial Taxes,  
Uttarakhand, Dehradun. ...Respondents

**COMMERCIAL TAX REVISION NO. 17 OF 2013 (5)**

Between:

M/s Akums Drugs & Pharmaceuticals Limited, through its  
Director Mr. Sanjeev Jain .....Revisionist  
and

Commissioner of Commercial Taxes,

Uttarakhand, Dehradun. ...Respondents  
**COMMERCIAL TAX REVISION NO. 18 OF 2013 (6)**

Between:  
M/s Akums Drugs & Pharmaceuticals Limited, through its  
Director Mr. Sanjeev Jain .....Revisionist  
and  
Commissioner of Commercial Taxes,  
Uttarakhand, Dehradun. ...Respondents  
**COMMERCIAL TAX REVISION NO. 19 OF 2013 (7)**

Between:  
M/s Akums Drugs & Pharmaceuticals Limited, through its  
Director Mr. Sanjeev Jain .....Revisionist  
and  
Commissioner of Commercial Taxes,  
Uttarakhand, Dehradun. ...Respondents  
**COMMERCIAL TAX REVISION NO. 15 OF 2015 (8)**

Between:  
M/s Akums Drugs & Pharmaceuticals Limited, through its  
Director Mr. Sanjeev Jain .....Revisionist  
and  
Commissioner of Commercial Taxes,  
Uttarakhand, Dehradun. ...Respondents  
**COMMERCIAL TAX REVISION NO. 78 OF 2017 (9)**

Between:  
M/s Akums Drugs & Pharmaceuticals Limited, through its  
Director Mr. Sanjeev Jain .....Revisionist  
and  
Commissioner of Commercial Taxes,  
Uttarakhand, Dehradun. ...Respondents  
**COMMERCIAL TAX REVISION NO. 79 OF 2017 (10)**

Between:  
M/s Akums Drugs & Pharmaceuticals Limited, through its  
Director Mr. Sanjeev Jain .....Revisionist  
and  
Commissioner of Commercial Taxes,  
Uttarakhand, Dehradun. ...Respondents

Counsel for the revisionist : Mr. Arvind Kumar and Ms. Vandana  
Singh Mehra.

Counsel for the respondent : Ms. Puja Banga, learned Brief Holder  
for the State of Uttarakhand.

***Upon hearing the learned Counsel, the Court made the following***

**COMMON JUDGMENT** : (per Sri Vipin Sanghi, C.J.)

The issue raised in these Commercial Tax Revisions was also the issue raised in Commercial Tax Revision No. 80 of 2017 in respect of the same revisionist / assessee. The substantive question of law considered by this Court in CTR No. 80 of 2017 was the following: -

*"Whether the order of the Sales Tax Tribunal, Uttarakhand in holding that the revisionist is not entitled to reduce the levy of Central Sales Tax @ 1% for the financial year 2010-11 onwards) after the Capital Investment of Plant and Machinery, having exceeded R. 25 Crores in it's Unit-1, as on 18.03.2010, is erroneous in the facts of this case?"*

2. Commercial Tax Revision No. 80 of 2017 was related to the Assessment Year 2011-12 (Central). This Court disposed of the same by its judgment dated 22.07.2022, finding that the Assessing Officer had imposed tax @ 2% *de hors* the assessment made by the Committee of the extent of capital investment made by the Assessee in plant and machinery as per Notification No. 6222 dated 25.07.2001, as modified by Notification No. 822 dated 03.07.2004, issued by the Government of Uttarakhand. Consequently, the Division Bench

disposed of Commercial Tax Revision No. 80 of 2017 by observing as follows: -

*"12. Thus, it is clear that in this case while imposing the Tax at the rate of 2% the Assessing Officer has not considered the assessment determined by any Committee, further he has relied on his own assessment. In that view of the matter, the order passed by the Assessing Authority, confirmed by the Appellate Authority and the Commercial Tax Appellate Tribunal is not sustainable. In that view of the matter, the Central Tax Revision is allowed. The orders passed by the learned Commercial Tax Tribunal dated 16.06.2017, in Second Appeal No. 08 of 2017 (2011-2012)....Central); order dated 27.11.2016 passed by the Joint Commissioner (Appeal)-II, Commercial Tax, Haridwar; and the order dated 27.03.2015, passed by the Assessing Authority are hereby set aside. The matter is remanded back to the Assessing Officer with a direction to the Commissioner of Commercial Tax Uttarakhand, Dehradun to move the Government for formation of the Committee as envisaged in the Notifications referred to above and refer the matter for determination of the exact and total capital investment by the revisionist for the period under consideration and, thereafter, issue a fresh assessment order in favour of the respondent."*

3. Undisputedly, the position is no different in the assessment years, in relation to which the present Commercial Tax Revisions have been preferred. Since the same lacuna inheres the Assessment Orders passed by the Assessing Officer imposing tax @ 2% upon the Assessee for the assessment years concerned in these C.T.R.s, we dispose of these Revisions in terms of the

judgment dated 22.07.2022 passed in Commercial Tax Revision No. 80 of 2017.

4. We, however, find that the said order, in its last line, observes "*thereafter, issue a fresh assessment order in favour of the respondent.*" Obviously, the same should read as "*thereafter, issue a fresh assessment order in accordance with law.*"

5. Since the exercise has to be conducted by the Committee in relation to several assessment years, we direct that the same be concluded at the earliest, and preferably within the next nine months.

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**VIPIN SANGHI, C.J.**

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**R.C. KHULBE, J.**

Dt: 30<sup>th</sup> September, 2022  
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