



2026:AHC:189899

Reserved on : 02.09.2026

Delivered on : 11.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

SALES/TRADE TAX REVISION No. - 276 of 2016

M/s Sai Baba Ent Bhatta

.....Revisionist(s)

Versus

Commissioner Commercial Tax

.....Opposite Party(s)

Counsel for Revisionist(s)	: Lokesh Mittal, Murari Mohan Rai
Counsel for Opposite Party(s)	: C.S.C.

With

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Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Sri Murari Mohan Rai, learned counsel for the revisionist and Sri Bipin Kumar Pandey, learned Additional Chief Standing Counsel for the opposite party.

2. Both the revisions have been filed against the order dated 19.03.2016 passed by the Commercial Tax Tribunal, Kanpur in Second Appeal No. 47 of 2015 for Assessment Year 2008-09 arising out of proceedings initiated under Section 56(1) of U.P. VAT Act and Second Appeal No.46 of 2015 for Assessment Year 2008-09 arising out of proceedings initiated under Section 56(1) of U.P. Entry Tax Act. The present revision was admitted by this Court vide order dated 23.08.2016 on the following question of law:

“(a) Whether on the facts and in the circumstances of the case, in the absence of any order of authorization by the Commissioner, Commercial Tax, the Joint Commissioner (Executive), Commercial Tax, Etawah had any jurisdiction to exercise the revisional powers as contained under Section 56(1) of the U.P. VAT Act, 2008?”

“(b) Whether on the facts and in the circumstances of the case, in the absence of any notification issued in favour of Joint Commissioner (Executive), Commercial Tax, the saving clause as mentioned in Section 81(2) could permit the Joint Commissioner to invoke the revisional power under Section 56(1) of the Act?”

“(c) Whether on the facts and in the circumstances of the case, the Notification No.ST-2-9529 dated 31.03.1982 issued under the Section 10B of the U.P. Sales Tax/Trade Tax Act, 1948 in favour of “Deputy Commissioner, Sales Tax” by the State Government without being amended could give power to the Joint Commissioner (Executive), Commercial Tax to act as a revising authority?”

“(d) Whether on the facts and in the circumstances of the case, the Joint Commissioner (Executive), Commercial Tax was justified in usurping the powers of the assessing authority and substituting its own assessment orders and determining the turnover and tax when under Section 56(1) of the VAT Act, 2008 when only the orders in respect of legality and priority of the order is required to be passed by the revising authority?”

3. Learned counsel for the revisionist submits that the revisionist is engaged in the business of manufacture and sale of bricks within the State of U.P. On the basis of surveys conducted on 17.04.2008, 18.05.2008, 25.06.2008, 25.09.2008 and 25.01.2009, the assessment was made and the filing period as well as the selling rate were enhanced. Against the said order, an appeal was preferred. Thereafter, the Joint Commissioner (Executive), Commercial Tax, Etawah issued a notice dated 10.02.2014 under Section 56(2) of the U.P. VAT Act in respect of the order dated 29.05.2012, proposing to revise the same. A detailed reply was submitted by the revisionist; however, not being satisfied with the same, the Joint Commissioner (Executive), Commercial Tax, Etawah, by order dated 02.06.2014, revised the assessment order and enhanced the taxable turnover, thereby creating an additional liability of Rs.4,27,879/-. Against the said order, an appeal was preferred, which

was partly allowed by order dated 19.03.2016. Aggrieved by the said order, the present revisions have been filed.

4. Learned counsel for the revisionist further submits that the proceedings under Section 56(1) of the U.P. VAT Act were initiated by the Joint Commissioner (Executive), Commercial Tax, Etawah without jurisdiction, as the concerned officer was not authorized by the Commissioner, Commercial Tax, U.P., to call for and examine the record relating to any order passed by an officer subordinate to him for the purpose of satisfying himself as to the legality or propriety of such order. He further submits that, after enforcement of the U.P. VAT Act, the Commissioner, Commercial Tax, U.P., Lucknow, has not issued any order delegating the revisional power conferred under Section 56(1) of the Act upon any other authority.

5. Learned counsel for the revisionist further submits that, in the absence of any authorization by the Commissioner, Commercial Tax, U.P., Lucknow, in favour of the Joint Commissioner (Executive), Etawah, the exercise of power under Section 56(1) of the Act by the Joint Commissioner (Executive), Etawah, is wholly without jurisdiction. Consequently, the entire proceedings initiated under Section 56(1) of the Act are void ab initio, illegal and liable to be set aside. He further submits that once the order has been passed by an authority lacking jurisdiction, the entire proceedings initiated under Section 56(1) of the Act are liable to be quashed.

6. The said submissions of the revisionist is vehemently opposed by learned Additional Chief Standing Counsel by submitting that such objection was never raised before the authorities below and, therefore, the same cannot be pressed in the present revisional jurisdiction. He further supports the impugned orders.

7. After hearing the learned counsel for the parties, Court has perused the record.

8. The issue raised with regard to the jurisdiction of the Joint Commissioner (Executive) has admittedly been raised for the first time in the present revision. However, the issue of jurisdiction goes to the root of the matter. If any order has been passed without jurisdiction, the question of jurisdiction can be raised at any stage. The Supreme Court, in the case of *Chandrika Misir and another v. Bhaiyalal*, AIR 1973 SC 2391, has held that where the Court lacks jurisdiction, the plea of jurisdiction may be raised at any stage, even if the same was not raised before the trial Court.

9. Similarly, this Court, in the case of *M/s M.S. Traders v. Commissioner of Sales Tax, U.P., Lucknow*, [2007] 46 STR 894, has held that a question of jurisdiction raised for the first time before the Tribunal can be entertained and adjudicated, as the law relating to jurisdiction goes to the root of the matter and such an issue, even if raised for the first time, can be decided.

10. This Court, in another case, namely, *M/s Shyam Lal Om Prakash v. Commissioner of Sales Tax, U.P.*, 1980 UPTC 1116, has also held that an issue relating to jurisdiction can be raised for the first time even before this Court in revisional jurisdiction.

11. In view of the above, the issue with regard to jurisdiction, though it may not have been raised before the Court below, is permitted to be raised at this stage. The record shows that the Commissioner, Commercial Tax, Lucknow, after the implementation of the U.P. VAT Act, has not authorized the Joint Commissioner (Executive), Commercial Tax, Etawah, to initiate proceedings under Section 56(1) of the U.P. VAT Act. The State could not even demonstrate in the counter affidavit that the said power was delegated to the Joint Commissioner (Executive), Etawah, by any Notification, Act or Circular.

12. In the absence thereof, the proceedings initiated by the Joint Commissioner (Executive), Etawah, against the revisionist in exercise of the power under Section 56(1) of the U.P. VAT Act are without jurisdiction and void ab initio and, therefore, are liable to be set aside.

13. In view of the above, revision is **allowed**.

14. The substantial questions of law are answered accordingly in favour of the revisionist and against the opposite party.

(Piyush Agrawal,J.)

September 11, 2026

A.N. Mishra