

Vinod Kumar v. Commissioner Uttarakhand State GST and others

Case number: Review Application MCC No. 1 of 2022 in Special Appeal No. 123 of 2022

Decision date: 24 June 2024

An assigned Assistant Commissioner is an adjudicating authority: correction of the earlier GST appeal-maintainability ruling

Court: Uttarakhand High Court

Bench: Hon'ble Chief Justice Ms. Ritu Bahri and Hon'ble Mr. Justice Rakesh Thapliyal

Decision stage: Final reasoned disposal of the review application, partly allowed on appeal maintainability; the unchallenged 18 August 2022 writ disposal was left undisturbed.

01 Facts of case and issues

Vinod Kumar, a mason and painting professional, had his GST registration cancelled on 21 September 2019 after six months of unfiled returns. His first appeal was rejected for delay. The Single Judge dismissed his writ petition on 30 September 2021. On 20 June 2022, the Division Bench allowed Special Appeal 123/2022 and remitted the writ for consideration on merits. That judgment also reasoned that an Assistant Commissioner acting under the Commissioner's control was not an independently appealable adjudicating authority.

After remand, the Single Judge disposed of the writ on 18 August 2022, recording conditional renewal upon payment of the entire defaulted amount, interest and penalty. Neither party challenged that disposal. Respondents 1 and 2 nevertheless sought review of the earlier appeal-maintainability proposition. The Court condoned 63 days' delay in bringing this review with counsel's consent.

Pinpoint: Review paragraphs 1–7, physical pp. 1–4; original 20 June 2022 judgment, paragraph 2, physical p. 2, and paragraphs 11–18, pp. 9–13; 18 August 2022 order, both pages.

02 Discussion by Hon'ble Court

The State relied on the Commissioner's order dated 30 June 2017 assigning proper-officer functions to the Assistant Commissioner under Sections 5(1), 5(3) and 2(91) of the Uttarakhand GST Act. It argued that assignment made the Assistant Commissioner an adjudicating authority within Section 2(4), whose cancellation order was appealable under Section 107. The assignment itself had not been challenged.

The Court revisited the reasoning based on Radha Krishan Industries, which concerned the Commissioner's provisional-attachment power. Paragraphs 18–21 reproduce and explain the earlier no-appeal reasoning; they are not the review's final conclusion. The State also cited Commercial Steel, but the decisive reasoning here addressed the particular officer's assigned statutory functions.

02 Discussion by Hon'ble Court

At paragraphs 27–29, the Bench accepted that the Assistant Commissioner was both a proper officer and an adjudicating authority. Section 2(4)'s exclusion of the Commissioner did not exclude this Assistant Commissioner. Consequently, an appeal against the Assistant Commissioner's order lay before the Commissioner. Administrative subordination did not justify treating the two offices as identical for this purpose.

Pinpoint: Paragraphs 7–17, physical pp. 3–9; paragraphs 18–26, pp. 9–14; adopted reasoning and conclusion at paragraphs 27–29, pp. 14–15.

03 Judicial decision and operative relief

The review was allowed in part. The 20 June 2022 judgment was reviewed and modified to recognise the appeal against an order of the Assistant Commissioner, following the Commissioner's assignment of functions.

The Bench expressly confined the review because the subsequent 18 August 2022 writ disposal had not been assailed. It did not order a second remand, grant unconditional registration restoration, quantify a refund or reopen that disposal. The three-week renewal direction belonged to the earlier conditional order, not a fresh deadline imposed in June 2024.

Pinpoint: Paragraphs 4 and 28–29, physical pp. 2–3 and 15; 18 August 2022 order, physical p. 2.

04 In favour of

Revenue on the limited appeal-maintainability issue. Vinod Kumar's separate, conditional 18 August 2022 writ disposal remained undisturbed; the review was not a fresh taxpayer merits defeat on restoration.

The earlier no-appeal proposition concerning the assigned Assistant Commissioner was corrected. Section 107 supplied the statutory appellate route on the officer-assignment facts before the Court.

Pinpoint: Paragraphs 27–29, physical pp. 14–15.

05 AKHB REVIEW POINT

AKHB analysis: Read the 2022 judgment together with this review before citing Vinod Kumar. Identify the actual decision-maker, the State Act's definitions, the function assigned and the applicable appellate-authority instrument. An officer's place in the departmental hierarchy is not enough to determine appealability.

Keep the review's legal correction separate from the taxpayer's earlier restoration arrangement. The 63-day condonation concerned the review application, not statutory appeal limitation. Preserve service dates and appeal papers; this judgment creates no general extension for a delayed GST appeal and no nationwide rule that every GST appeal goes to a Commissioner.

Pinpoint: AKHB commentary based on paragraphs 4–7 and 22–29; not additional Court directions.

Sources and limitations

Relevant provisions

Uttarakhand Goods and Services Tax Act, 2017: Sections 2(4), 2(91), 5(1), 5(3), 29(1) and 107; Section 109 in the procedural history. Commissioner's function-assignment order dated 30 June 2017, as examined in the judgment.

Statutory note

The holding concerns the Uttarakhand State Act and the assignment proved in this case. The Court quotes the State definition of adjudicating authority, which excludes the Commissioner, and the proper-officer definition, which includes a State tax officer assigned the relevant function. These provisions should not be silently substituted with similarly numbered Central provisions or applied without checking the relevant State's authority designations.

Sections 2(4), 2(91), 29(1) and 107 were checked in the judgment itself. The 30 June 2017 assignment is described and applied at paragraphs 7, 16 and 27–29; an independently retrieved original assignment instrument was not verified. A targeted comparison with the principal-Act text in a PRS-hosted compilation was supplementary only. The India Code copy could not be retrieved successfully during this check. No complete amendment, notification, current appellate-designation or present Tribunal-availability audit is claimed. The 2022 statement that a Tribunal was unconstituted is historical, not a description of the position on 13 October 2026.

Treatment note

Checked 13 October 2026. The official eCourts case history for SPA 123/2022, CNR UKHC010074822022, shows MCC 1/2022 and its delay application as disposed on 24 June 2024. The case-level disposal date remains 20 June 2022; that registry field does not displace the later reasoned review. The official WPMS 1553/2021 record and its downloaded two-page order confirm the 18 August 2022 conditional disposal.

The official judgment in Devendra Singh Jalal v. State of Uttarakhand and others, SPA 249/2024, dated 8 August 2024, expressly applies this review at paragraphs 4–5. It disposes of that litigant's writ with liberty to use Section 107 and excludes time spent before the High Court from the limitation calculation. That exclusion is relief in Devendra Singh Jalal, not a new direction or universal limitation rule in Vinod Kumar. All three pages of the later judgment were read and individually viewed.

Targeted party-name, case-number and date searches did not establish a later reversal or stay of this review. No exact Supreme Court appeal docket was verified, and the High Court status page alone cannot establish the absence of an appeal. This is a bounded primary-source treatment check, not comprehensive citator clearance or an assurance that no later proceeding exists.

Scope of source review

All 15 physical pages of the retained review judgment were fully read and individually visually inspected. Its printed and physical-page numbering align, except that the first page has no printed page number. The complete 13-page 20 June 2022 judgment, two-page 18 August 2022 disposal and three-page 8 August 2024 Devendra Singh Jalal judgment were also fully read and individually viewed. Other Supreme Court authorities are identified as discussed or cited in the review; separate full-text review of those precedents is not claimed.

Source notes

The review judgment bears no printed neutral or reporter citation, so none is invented. Paragraph 27 contains an apparent reference to the Act as 2007 while also specifying Act No. 6 of 2017; the surrounding statutory discussion identifies the 2017 Act. No quotation has been silently altered. The official docket records a review filing date of 24 September 2022, whereas paragraph 5 says 26 September 2022; the note does not use either date to recompute delay. The judicial order, rather than the writ docket's inconsistent top-level coram field, identifies Sharad Kumar Sharma, J. as the author of the 18 August 2022 order.

Fresh downloads through the official eCourts docket on 13 October 2026 are byte-identical to the retained review and 20 June 2022 originals. The review remains SHA-256 9e8a9c27145d8440482c7b633b32a0b441daa26770165e64066cf842f6712ec9. Initial direct HTTP attempts returned a short unavailable-order HTML response; they were not treated as PDFs. The leading UTF-8 BOM and all original bytes were preserved. No cryptographic signature authentication is claimed. The collection's identically hashed review/disposal aliases represent one judgment, not two publication units.

Primary source

Source description: Official High Court of Uttarakhand judgment through eCourts

Official source: [Open source document](#)

Source pages: 15

Judgment author: Rakesh Thapliyal, J.

Outcome type: review partly allowed appeal maintainability corrected

Additional source

Official 20 June 2022 judgment in Special Appeal 123/2022

Official source: [Open source document](#)

Pinpoint: Complete 13-page judgment; paragraph 2 for background, paragraphs 11–15 for reasoning subsequently modified, paragraphs 16–18 for the original remand.

Official 18 August 2022 order in WPMS 1553/2021

Official source: [Open source document](#)

Pinpoint: Complete two-page order, particularly physical p. 2: conditional renewal and three-week period after deposit.

Official 8 August 2024 judgment in Devendra Singh Jalal, SPA 249/2024

Official source: [Open source document](#)

Pinpoint: Complete three-page judgment; paragraphs 4–6, physical pp. 2–3.

Official Uttarakhand eCourts case-number search

Official source: [Open source document](#)

Pinpoint: Case histories for SPA 123/2022, WPMS 1553/2021 and SPA 249/2024, checked 13 October 2026.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official judgment and identified primary sources. No human legal review is claimed.

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