

PROCEEDINGS OF THE ASSISTANT COMMISSIONER(APPEALS)

COMMERCIAL TAXES,ALAPPUZHA

PRESENT: S. PRASANNA

Date of order	:-	14.01.2020
Appeal no	:-	KVATA(ALPY)216/19
From the order of the	:-	State Tax Officer, 1st Circle,Alappuzha
Year of assessment	:-	2011-12
Name of appellant	:-	M/s.Premier Traders, CCSB Road, Alappuzha
Instituted on	:-	31.08.2019
Date of hearing	:-	11.12.2019

Present for appellant :- **Sri.Jacob Joseph, Sales Tax Practitioner**

APPELLATE ORDER AND GROUNDS OF DECISION

The appeal filed against the revised assessment order of State Tax Officer, 1st Circle, Alappuzha, Order No.32040568934/2011-12 dated.31.08.2019. The assessing authority restored the original assessment order for non production of books of accounts within the time limit allowed. Against the order, the dealer defend the case on the following grounds.

1. Appellant is a dealer in general goods and is registered with Commercial Tax Officer, 1st Circle, Alappuzha. The assessment pertains to the year 2011-2012. The assessing authority on verification of invoices alleged that in the caption of invoice it is mentioned as Form 8A in place of Form 8. The assessing authority therefore disallowed huge input tax to the tune of Rs.135275.00/-. Aggrieved by the assessment appellant filed this appeal.
2. The notice for assessment is received by the Accountant of the appellant on 17.08.2019. Unfortunately, the accountant omitted to bring the receipt of the notice to the attention of the appellant. All were busy with the filing of Annual return under GST. Thus also appellant forgot to brought the notice to the notice of the appellant. Appellant had already submitted all the invoices to the verification of assessing authority and the assessing authority could have verified the documents then and there itself. The assessing authority passed the order exactly on 31.08.2019 and there was haste in completing assessment. Therefore, it is prayed that appellant may be given one more opportunity to produce documents.

3. Hon'ble Supreme Court of India in the case of Commissioner of Trade & Taxes, Delhi and Others (TS-314-HC-2017 (Del))-VAT have even decided that the disallowance of input tax credit to the purchaser due to default of selling dealer in depositing tax, is violative of Articles 14 and 19(1) (g) of the constitution of India. Therefore the disallowance of input tax is unjustified.
4. Appellant is available with all the valid documents and if the documents are verified the entire demand of tax would be seized to exist.
5. In the light of above facts it is prayed that the assessing authority may be directed to allow one more opportunity to produce documents.

Sri.Jacob Joseph, Sales Tax Practitioner, appeared and heard the case and argued based on grounds of appeal.

Heard the case. The assessing authority passed the impugned order as an exparty and restored the original assessment order. In this case, the authorized representative argued that, the authorized representative/the appellant was busy with the filing of annual return under GST Act. Hence unfortunately the accountant of the firm omitted to bring the receipt of the notice to the attention of the appellant. Hence the authorized representative prayed for further opportunity to produce the documents before the assessing authority. The arguments of the authorized representative have some force. Hence the assessing authority is directed to give further opportunity to the appellant and cross verify the defects noted above and pass orders according to law. The appellant shall produce the documents before the assessing authority within 15 days of receipt of this order. If the appellant fails to produce the documents within the time limit, the assessing authority has the discretion to dispose the case on merit. Order accordingly.

Result: Modified

ASSISTANT COMMISSIONER (APPEALS)
ALAPPUZHA

To The Appellant through a/r
Copy submitted to Joint Commissioner(Law)
Copy submitted to Deputy Commissioner,CT,Alappuzha
Copy to State Tax Officer, 1st Circle, Alappuzha/File