

PROCEEDINGS OF THE ASSISTANT COMMISSIONER(APPEALS)

COMMERCIAL TAXES,ALAPPUZHA

PRESENT: S. PRASANNA

Date of order	:-	23.01.2020
Appeal no	:-	KVATA(ALPY)395/18
From the order of the	:-	State Tax Officer, Chengannur
Year of assessment	:-	2011-12
Name of appellant	:-	M/s.Pushpak Agencies, Karakkad,Chengannur
Instituted on	:-	08.02.2019
Date of hearing	:-	18.12.2019

Present for appellant:-Sri.S.R. Kalyanakrishnan,Sales Tax Practitioner

APPELLATE ORDER AND GROUNDS OF DECISION

The appeal filed against the assessment order of State Tax Officer, Chengannur, Order No.32041136362/2011-12 u/s.25(1) dated.08.02.2019. The assessment completed based on KVATIS scrutiny. The defects found were purchase and sales difference between the annual return and the audit statement, again purchase suppression detected on KVATIS scrutiny, and excess IPT claim. The assessing authority estimated the turnover, added back the above suppressed turnover, equal amount added for probable omission and suppression, disallowed the excess IPT claim and levied tax, cess plus interest. Aggrieved by the order, the dealer defend the case on the following grounds.

1. The order of the State Tax Officer is against natural justice and facts and circumstances of the case.
2. The assessing authority has not considered the reply properly. He has eared in finding reasons for making huge revenue demand.
3. The authority has not considered the supplying dealer has uploaded his bill in tune of retail category even though they have issued in Form No.8. Instead of uploading detailed sales list they done it narratively. In case ABT Industries there has 10 purchase bills taken as excess purchase and disallowed the input tax. I am this with presenting the list uploaded by the ABT Industries in which they have clearly uploaded my purchase. A comprehensive list attached where not allowed by the State Tax Officer.

4. The proposal of assessment on purchase difference in point no.1 is non the difference in turnover reported as per return and as per audit report were explained at the submission time of audit report as per detailed reconciliation statement. In audit report the purchase return has not deducted. There is purchase return as per annual return is amounting to Rs.171363.10/- that has reflected in return but omitted in audit report. Thus occurred that much difference. So difference in point one reduced up to above extent $359587.24 - 171363.10 = 188224.14$.
5. Difference in sales as per annual return and the audit report is due to the changes in 0% Taxable Coconut Oil sales as per accounts non-taxable sale is Rs.3228025.49/- but reported in the return is only Rs.3125549.75/- thus occurred the difference Rs.102475/-. Kindly consider and avoid the proposal on non-taxable turnover.
6. The assessee disclosed 5.4% Gross Profit, but assessment proposed is on 24%. It is baseless. Sales addition on defect 4 is base less Out of the proposed turnover we have proved Sales by ABT are accounted then that much turnover is to be reduced.

Since there is no other omission detected there is no meaning of an addition of 100% for probable omission and suppression. It should be deleted.

Considering the above facts I am praying for a best judgment.

Apart the above facts, points and other relevant documents, if any evidences become necessary will and use at the time of hearing.

Sri.S.R. Kalyanakrishnan, Sales Tax Practitioner, appeared and heard the case and argued based on grounds of appeal.

Heard the case. The impugned assessment is completed based on the turnover difference between annual return with audit report. On going through the records, it is noted that a certain portion of alleged turnover is purchase return. The appellant shall produce the declaration before the assessing authority for verification and also produce the rectification certificate from the Chartered Accountant's concerned. The appellant has not produced any documentary evidences to support the alleged purchase suppression detected. So I am not interfere with this part of assessment.

However the estimation is reduced to 50% of the suppression detected. The assessing authority shall verify the same and revise the order according to law. 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, Chengannur/File