

PROCEEDINGS OF THE ASSISTANT COMMISSIONER(APPEALS)

COMMERCIAL TAXES,ALAPPUZHA

PRESENT: S. PRASANNA

Date of order	:-	07.01.2020
Appeal no	:-	KVATA(ALPY)166/19
From the order of the	:-	State Tax Officer, Cherthala
Year of assessment	:-	2016-17
Name of appellant	:-	Varanad Stores,Cherthala
Instituted on	:-	29.06.2019
Date of hearing	:-	11.12.2019
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Present for appellant	:-	Sri.Jacob Joseph, Sales Tax Practitioner

APPELLATE ORDER AND GROUNDS OF DECISION

The appeal filed against the assessment order of State Tax Officer, Cherthala, Order No.32040825535/2016-17 dated.29.06.2019. The assessment completed based on irregular IPT claim on closing stock and non remittance of reverse tax due on the above. The assessing authority estimated to added back the above turnover in the assessment and levied tax plus interest. Aggrieved by the order, the dealer defend the case on the following grounds.

The assessment completed by Commercial Tax Officer, Cherthala is against law and fact.

The assessing authority should have taken note of the fact that appellant Rajeev who is the legal heir deceased Mohanan and has took over the business and continued the business as a going concern. Since appellant continued the business as going concern, appellant do not have to pay any reverse charge. Also, since appellant did not effect any purchase of goods remained unsold at the death of Shri.Mohanan, appellant was not in a position to mention the stock as purchases in the return. Therefore, the allegation that appellant did not state the purchase in the return filed is a wring ascertainment of fact.

The assessing authority misjudged the stock remained unsold as purchase of the new dealer. The assessing authority did not dispute the fact that Appellant is the legal heir of the deceased. The assessing authority also did not dispute the fact that appellant has sold the goods out of the stock which was remained unsold at the time of death. Therefore, appellant has no liability to pay reverse charge as alleged by the assessing authority.

In the light of facts stated above it is prayed that the assessment completed be set aside.

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

Heard the case. The appellant's father was the proprietor of the firm and was expired. Due to certain financial difficulties and lack of business management the appellant could not continue the business smoothly. Subsequently he has applied for KVAT Registration in his name and the same was granted by the assessing authority. The issue before me is the reverse of IPT credit. On verification of records it is noted that he couldn't purchase due to financial problem and forced to sell and remitted the tax. The remaining stock in hand and remaining portion is carry forwarded to next year and reflected in the books of accounts. So there is no question of reverse IPT in this case as alleged by the assessing authority. Hence the assessing authority is directed to accept these aspects after the result of verification. The appeal stands allowed. 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, Cherthala/File