

KVATA 136/19

PROCEEDINGS OF THE ASST COMMISSIONER (APPEALS)
STATE GOODS AND SERVICES TAXES DEPARTMENT, THRISSUR

PRESENT: SMT. SHYLA PRIYA .V LL.B

- 1.KVAT Appeal Number : KVATA 136/19
- 2.Order Date : 25.01.2020
3. Instituted on : 12.03.2019
4. From the order of the : 32081414207/2014-15 dtd 14.08.2018 of State
Tax Officer, IV Circle, Thrissur.
5. Year of assessment : 2014-15
6. Name of Appellant : M/s Krishna Marbles & Granites.
7. Turnover Assessed : 59,630/- (refund rejection)
8. Section/Rule under which
assessment made : U/R 47 A of KVAT Act 2003.
9. Date of hearing : 21.01.2020
10. Authorized Representative : Adv.V R Padmanabhan

APPELLATE ORDER AND THE GROUNDS OF DECISION

M/s. Krishna Marbles & Granite TIN 32081414207 filed this appeal against the refund rejection Order No.332081414207/2014-15 dtd 14.08.2018 of State Tax Officer, IV Circle, Thrissur which was finalized U/R 47 (A) of KVAT Act.

The main grounds of appeal submitted are:-

1. The ex parte order of the State Tax Officer, Fourth Circle, Thrissur rejecting the application for refund of excess IPT credit for the year 2014-15 is opposed to law, facts and circumstances of the case and, therefore, is liable to be set aside.
2. The appellant had an excess credit of IPT amounting to Rs.59,630/- remaining unadjusted at the end of the year 2014-15. The appellant had filed an application in Form No.21CC dated 29.06.2015 with all required details. The assessing authority rejected the application stating that the appellant has not produced books of accounts for verification.
3. The assessing authority seriously erred in rejecting the application without affording the appellant an effective opportunity to produce the books of accounts. He went wrong in his finding that the appellant has not responded to the notice 'till date'. In response to the notice, the appellant had requested for an adjournment for producing the books of accounts for the year 2014-15 by e mail dated 14.08.2018. The assessing authority has disallowed the claim of IPT without considering the request.

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4. 4. The assessing authority ought to have found that the claim of IPT is supported by tax invoices from local registered dealers. He has not pointed out any instances of excess claim of IPT by the appellant through scrutiny of returns or verification of books of accounts. As such the appellant was legally eligible for refund of excess IPT remaining unadjusted at the end of the year.
5. 5. Without prejudice to the above, it is submitted that a further opportunity may be given to the appellant to produce the books of accounts before the assessing authority.
6. 6. For these and such other grounds that may be urged at the time of hearing, it is prayed that the Hon'ble Assistant Commissioner (Appeals) may be pleased to set aside the impugned order and allow the appeal.

The appeal was posted for hearing and the authorised representative of the appellant Adv Padmanabhan appeared, and was heard ,As against his contention “ *The assessing authority seriously erred in rejecting the application without affording the appellant an effective opportunity to produce the books of accounts. He went wrong in his finding that the appellant has not responded to the notice ‘till date’. In response to the notice, the appellant had requested for an adjournment for producing the books of accounts for the year 2014-15 by e mail dated 14.08.2018. The assessing authority has disallowed the claim of IPT without considering the request.*”

From the order of the assessing authority it is evident that the appellant was not heard before finalization, even though he was given an opportunity, the appellants request to give an adjournment is not heeded with thereby resulting in violation of Natural justice. Hence this is remanded back to the appellant for fresh disposal.

Result: Remanded

ASSISTANT COMMISSIONER (APPEALS)
THRISSUR

To

*The Appellant through the Authorized Representative,
Copsysubmitted1. Additional Commissioner (Law), SGST Dept,Thiruvananthapuram,
2 . Joint Commissioner , SGST Dept , Thrissur*

Copy forwarded to

1. State Tax Officer, IV Circle, Thrissur
 2. Deputy Commissioner , SGST Dept, Thrissur.
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