

PROCEEDINGS OF THE ASSISTANT COMMISSIONER (APPEALS)
STATE GOODS AND SERVICES TAXES DEPARTMENT, THRISSUR
PRESENT: SMT. SHYLA PRIYA .V LL.B

1.KVAT Appeal Number	: KVATA 149/19
2.Order Date	: 22.01.2020
3. Instituted on	: 22.03.2019
4. From the order of the	: No.32080923495/2014-15 dtd 24.09.2018 of State Tax Officer, Irinjalakuda .
5. Year of assessment	: 2014-15
6. Name of Appellant	: M/s. Anupama Textiles.
7. Turnover Assessed	: Rs.19,40,166/-
8. Section under which assessment made	: 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. Anupama Textiles, TIN 32080923495, filed this appeal against the assessment Order No.32080923495/2014-15 dtd 24.09.2018 of State Tax Officer, Irinjalakuda which was finalized under section 25(1) KVAT Act 2003.

The main grounds of appeal submitted are:-

The impugned assessment order of the State Tax Officer, Irinjalakuda u/s 25 (1) of the Act for the year 2014-15 is opposed to law, facts and circumstances of the case and, therefore, is liable to be set aside.

- 1. The best judgment assessment has been completed ex parte, without giving the appellant sufficient opportunity to file objections to the pre-assessment notice. The short adjournment requested in person to file reply to the pre-assessment notice was not considered by the assessing authority.*
- 2. The assessing authority seriously erred in her finding of suppression in purchase amounting to Rs. 8,59,641.84 said to have detected in scrutiny through KVATIS. The appellant had stopped business with effect from 31.03.2014. The alleged unaccounted purchases were not related to the appellant. The purchases were actually effected by some other dealers misusing the TIN of the appellant.*
- 3. The assessing authority erred in assessing the entire estimated turnover @ 5% She ought to have noted that as per the purchase detail extracted in the order itself, purchase amounting to Rs. 4,09,218.63 were related to the purchase of textiles, a non-taxable commodity. As such, the estimated turnover with further equal addition corresponding to the non-taxable purchases was assessable only @ 0%.*
- 4. Without prejudice to the above, it is submitted that the further addition of equal amount to cover up probable omission and suppression is highly excessive and*

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arbitrary. The appellant had already stopped business with effect from 31.03.2014. The entire data regarding purchases have been cross checked in KVATIS and the suppression has been quantified. So much so, further equal addition is quite uncalled for.

ADDITIONAL GROUNDS OF APPEAL

These additional grounds may be treated as part of the grounds of appeal already urged.

Without prejudice to the grounds urged in the grounds of appeal, the addition made on the alleged unaccounted purchases and suppression detected in vehicle checking may be limited to the actual suppression detected and deleting the equal addition made for probable omission and suppression as provided under section 25AA. IPT credit may also be allowed on the unaccounted local purchases.

When the appeal posted for hearing Adv. V.R Padmanabhan appeared and heard.

As against the contention " *The appellant had stopped business with effect from 31.03.2014. The alleged unaccounted purchases were not related to the appellant. The purchases were actually effected by some other dealers misusing the TIN of the appellant.*" This contention is not allowable without due proof.

As against the contention " *The assessing authority erred in assessing the entire estimated turnover @ 5% She ought to have noted that as per the purchase detail extracted in the order itself, purchase amounting to Rs. 4,09,218.63 were related to the purchase of textiles, a non-taxable commodity. As such, the estimated turnover with further equal addition corresponding to the non-taxable purchases was assessable only @ 0%.*" I find merit on this contention , as such the assessing authority has the list of purchases and from this list the turnover of taxable and non taxable purchase is identifiable, hence it is directed to assess the turnover based on the proportion of purchase turnover of taxable and non taxable and apply the same to the added addition of turnover. Modify and issue orders accordingly.

Result : Modified

ASSISTANT COMMISSIONER (APPEALS)
THRISSUR

To

The Appellant through the Authorized Representative,
Copysubmitted1.Joint Commissioner(Law),SGSTDept,Thiruvananthapuram,
2 . Deputy Commissioner ,SGST Dept , Thrissur

Copy forwarded to

1. State Tax Officer, Irinjalakuda
2. Asst Commissioner ,SGST Dept, Irinjalakuda.

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