

**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 268/19
- 2.Order Date : 30.01.2020
3. Instituted on :25.06.2019
4. From the order of the : No.32081142971/2014-15 dtd 28.02.2019 of
State Tax Officer, Chavakkad.
5. Year of assessment : 2014-15
6. Name of Appellant : M/s. Color Centre.
7. Turnover Assessed : Rs.1,58,78,250/-
8. Section/Rule under which
assessment made :U/s. 25(1) 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. Color Centre, TIN 32081142971, filed this appeal against the assessment Order No..No.32081142971/2014-15 dtd 28.02.2019 of State Tax Officer, Chavakkad. which was finalized under KVAT Act 2003.

The main grounds of appeal submitted are:-

1. The impugned order of the State Tax Officer, Chavakkad 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.

2. The assessing authority went wrong in resorting to best judgment assessment which is carried out in a highly arbitrary manner and without appreciating the facts in issue and the specific averments in the reply filed dated 28.02.2019. The cogent explanations furnished in reply to the pre-assessment notice were rejected on untenable grounds.

3. The assessing authority seriously erred in estimating direct expense at 2% of the purchase turnover. He ought to have found that the direct expense of Rs. 40,301/- conceded in the books of accounts was the actual expenses incurred. He ought to have considered the explanation that the entire purchase of the appellant is local and paint items were delivered at the shop of the appellant by the suppliers as door delivery, free of freight and unloading charges. As such, the appellant has not incurred any expenses on freight and cooly on the above purchase. The observation of the assessing authority that the direct expense in this type of business is usually 2% to 5% of the purchase value is not based on any material evidence and is mere assumption and presumption.

4. *Estimation of freight charges at a fixed percentage of purchase value regardless of the peculiar nature of each commodity is grossly irregular. The assessing authority has no case that the gross profit conceded by the appellant at 14% is low in the line of business and the direct expenses has been suppressed with a view to show an inflated gross profit in the books of accounts.*
5. *The assessing authority failed to consider the explanation furnished regarding the unaccounted purchases. He ought to have noted that the purchases were accounted in the books of accounts of the appellant and there was only an omission to upload in the purchase statements.*
6. *Without prejudice to the above, it is submitted that the further addition of equal amount for probable omission and suppression is highly excessive, arbitrary and without any nexus to the materials available on records.*
1. *These additional grounds may be treated as part of the grounds of appeal already urged.*

2. *Without prejudice to the grounds urged in the grounds of appeal, the addition made on the alleged unaccounted purchases and sales 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 3 and 4 , The appellant could not submit any proof against this claim , hence the same is disallowed.

As against the contention 5 and the contention 2 on the additional grounds filed, the plea of the appellant to allow the finalization of the assessment as specified under section 25AA is herewith allowed. The assessing authority is herewith directed to modify and issue orders accordingly.

Result: Modified

ASSISTANT COMMISSIONER (APPEALS)

THRISSUR

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

Copy forwarded to

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