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**KVATA 377/19**

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

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| 1.KVAT Appeal Number                              | : KVATA 377/19                                   |
| 2.Order Date                                      | : 07.02.2020                                     |
| 3. Instituted on                                  | : 21.11.2019                                     |
| 4. From the order of the Tax Officer, Kodungallur | :No. 32081096755/2016-17 dtd 21.10.2019 of State |
| 5. Year of the assessment                         | : 2016-17  |
| 6. Name of Appellant                              | : M/s. Steel Wud Furniture and Play Items,LLP    |
| 7. Turnover Assessed                              | : Rs. 11,62,789/-                                |
| 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. Steel Wud Furniture and Play items TIN 32081096755 filed this appeal against the assessment order No. 32081096755/2016-17 dtd 21.10.2019 of State Tax Officer, Kodungallur which was finalized under U/s. 25(1) of KVAT Act.

*The main ground of appeal submitted are:-*

- 1. The impugned assessment order of the State Tax Officer, Kodungallur u/s 25 (1) of the Act for the year 2016-17 is opposed to law, facts and circumstances of the case and, therefore, is liable to be set aside.*
- 2. The best judgment assessment is completed without properly considering the reply filed against the pre assessment notice dated 28.09.2019. The cogent explanations submitted by the appellant were rejected on untenable grounds.*
- 3. The impugned purchases as per the assessment order were towards the purchase of consumables, tools etc., for the manufacturing of steel furniture and not meant for resale. As such, the assessing authority is not justified in estimating sales turnover on the alleged unaccounted purchases.*
- 4. Without prejudice to the above, it is submitted that IPT credit on the above purchases ought to have been allowed as provided under sub section (2) (a) of section 25AA of the Act as the appellant has admitted the impugned purchases.*
- 5. The assessing authority went wrong in assessing the estimated sales turnover on unaccounted purchase @ 14.5%. The commodities purchased include goods taxable at 5% as well as 14.5%.*
- 6. The assessing authority went wrong in his finding of suppression in interstate sales of machinery. He ought to have considered the explanation that the machinery was sent out for repair work. He ought to have noted that as per the KVATIS check post transaction data, the impugned transaction was shown as 'Job Work (out)'.*

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7. *Without prejudice to the above, it is submitted that the assessment of the alleged interstate sale at 14.5% is unsustainable.*
8. *It is further submitted that the addition of gross profit at 25% on the alleged interstate sale is illegal and unsustainable. The assessing authority has treated the check post transaction as interstate sale. Hence further addition of GP of 25% is quite uncalled for.*
9. *The assessing authority ought not to have levied interest to the tune of Rs. 52,268/- on the tax arbitrarily assessed in best judgment assessment in total disregard of the settled principles of law laid down by the Apex Court J.K. Synthetics case etc.*

The appeal was posted for hearing Adv. V.R Padmanabhan appeared for the appellant. As against the contention "it is submitted that IPT credit on the above purchases ought to have been allowed as provided under sub section (2) (a) of section 25AA of the Act as the appellant has admitted the impugned purchases." I find merit on this contention and the same is allowed the assessing authority is directed to allow the Input tax credit as per law and modify the order.

As against the contention "The assessing authority went wrong in assessing the estimated sales turnover on unaccounted purchase @ 14.5%. The commodities purchased include goods taxable at 5% as well as 14.5%." from the unaccounted purchases the officer could ascertain the tax rates applicable ,but the appellant here is a manufacturer of furniture and the final output is taxable @ 14.5% hence this contention is disallowed.

As against his contention " He ought to have considered the explanation that the machinery was sent out for repair work. He ought to have noted that as per the KVATIS check post transaction data, the impugned transaction was shown as 'Job Work (out)'"but the same is not seen to have brought back into the state after the repair, hence this contention is not allowed.

**RESULT: Modified**

ASSISTANT COMMISSIONER (APPEALS )  
THRISSUR

To  
The Appellant through the Authorized Representative,  
Copysubmitted 1. Joint Commissioner(Law),SGST Dept,Thiruvananthapuram,  
2 . Deputy Commissioner ,SGST Dept , Thrissur

Copy forwarded to  
1. State Tax Officer ,Kodungalloor.  
2. Asst Commissioner ,SGST Dept,Irinjalakuda.  
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