

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 387/19
2. Order Date	: 30.01.2020
3. Instituted on	: 18.12.2019
4. From the order of the	: No.32081279995/15-16 dtd 31.10.2019 of State Tax Officer, Kunnamkulam
5. Year of assessment	: 2015-16
6. Name of Appellant	: M/s. Rajadhani Traders
7. Turnover Assessed	: Rs.14,24,874/-
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. Rajadhani Traders, TIN 32081279995, filed this appeal against the assessment Order No..32081279995/15-16 dtd 31.10.2019 of State Tax Officer, Kunnamkulam which was finalized under KVAT Act 2003.

The main grounds of appeal submitted are:-

The impugned order of the State Tax Officer, Kunnamkulam for the year 2015-16 u/s 25 (1)/25AA of the Act 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 pleadings raised in reply to the pre-assessment notice.

3. The assessing authority went wrong in sustaining the addition relating to the alleged unaccounted purchases for Rs. 3,38,123.94 covered by 41 bills claimed to have detected in scrutiny through KVATIS. She failed to consider the explanation of the appellant that the sales covered by the bills extracted in the notice by M/s Esquire Multiplast Pvt. Ltd-TIN 32070213472 were not made to the appellant, but to another dealer, Royal Furniture, Erumappetty, TIN-32243050813. The mismatch found in scrutiny was purely due to the clerical error on the part of the seller dealer in entering the TIN of the appellant in their sales statements uploaded instead of the TIN of the real buyer, M/s Royal Furniture, Erumappetty.

4. The assessing authority ought to have considered the certificate produced by the seller dealer, Esquire Multiplast Pvt Ltd, clarifying their mistake and confirming their sales to M/s Royal Furniture, Erumappetty. She ought to have verified the KVATIS and found that the impugned purchases were accounted and uploaded by M/s Royal Furniture, Erumappetty in the purchase statements filed along with their returns.

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5. The assessing authority ought to have noted the circular instructions of the Commissioner of Commercial Taxes in C1-45370/09//CT dated 16.11.2009 to the effect that scrutiny through KVATIS is only a tool for cross verification. It acts as an aid in cross checking the purchase and sales. But it does not mean that human intervention has been dispensed with in scrutiny of the returns. Scrutiny of returns shall not be a mechanical exercise and it should be carried out with application of mind.

6. The assessing authority ought to have found that levy of interest is against the settled judicial verdicts in the matter.

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

As against the contention " The assessing authority went wrong in sustaining the addition relating to the alleged unaccounted purchases for Rs. 3,38,123.94 covered by 41 bills claimed to have detected in scrutiny through KVATIS. She failed to consider the explanation of the appellant that the sales covered by the bills extracted in the notice by M/s Esquire Multiplast Pvt. Ltd-TIN 32070213472 were not made to the appellant, but to another dealer, Royal Furniture, Erumappetty, TIN-32243050813. The mismatch found in scrutiny was purely due to the clerical error on the part of the seller dealer in entering the TIN of the appellant in their sales statements uploaded instead of the TIN of the real buyer, M/s Royal Furniture, Erumappetty. The assessing authority ought to have considered the certificate produced by the seller dealer, Esquire Multiplast Pvt Ltd, clarifying their mistake and confirming their sales to M/s Royal Furniture, Erumappetty. She ought to have verified the KVATIS and found that the impugned purchases were accounted and uploaded by M/s Royal Furniture, Erumappetty in the purchase statements filed along with their returns."

This contention of the appellant was also placed before the Assessing authority but this was declined for want of proof, now the appellant has produced the uploaded list of Royal furniture, TIN 32243050813, which proves the merit on the appellants claim, hence the appellant is directed to appear before the assessing authority with this uploaded list. The Assessing authority shall verify the same and delete the Proved transactions from the assessment and modify the order 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, Kunnampalam
 2. Asst Commissioner ,SGST Dept , Thrissur
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