

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

1.KVAT Appeal Number	: KVATA 391/19
2.Order Date	: 31.01.2020
3. Instituted on	: 31.12.2019
4. From the order of the Tax officer	: No.32081154704/2013-14 dtd 24.10.2019 of State Tax officer Chavakkad.
5. Year of assessment	: 2013-14
6. Name of Appellant	: M/s. Voltex Electrical & Electronics, Vatanappally. .
7. Turnover Assessed	: Rs. 37,39,750/-
8. Section/Rule under which assessment made	: U/s. 25(1) of KVAT Act.
9. Date of hearing	: 23.01.2020
10. Authorized Representative	: Joy.P.F (Adv)

**APPELLATE ORDER AND THE GROUNDS OF DECISION**

M/s. Voltex Electrical & Electronics, Vatanappally, TIN 32081154704, filed this appeal against the assessment Order No.32081154704/2013-14 dtd 24.10.2019 of State Tax officer Chavakkad which was finalized U/s. 25(1) of KVAT Act 2003.

The main grounds of appeal submitted are:-

1. The order of the Assessing authority is opposed to law, facts and circumstances of the case.
2. The appellant has produced detailed explanation and documents the same has not been verified by the State Tax Officer. The order of the State Tax Officer is against natural justice
3. The total taxable turnover estimated is Rs.37,39,750/-
4. The assessing authority has not conducted any enquiry before estimating the turnover utilizing 3<sup>rd</sup> party's information. The assessing authority ought to have verified the objection raised by the appellant in a judicial manner than, rejecting the same without grounds.
5. Following are the allegations raised by the assessing authority to issue best judgment order
  - i.(Defect No.1) Difference between purchase turnover conceded in Return and in KVATIS
  - ii.(Defect No.2) .(Defect No.2) Difference between Sales turnover conceded in Return and KVATIS

Defect No.1(Clarification to point i):-Out of seven unaccounted purchase mentioned in the assessment order, the S.L. No. 2 to 7 has been accounted and uploaded to KVATIS. The Appellant would like to inform you that, the purchases of Rs.5,950/-, vide serial no 1 of your above mentioned order is purchased by the Appellant but the bill no uploaded wrongly as 244 instead L 544. The Appellant hereby produce copy of uploaded statement to KVATIS as Annexure A. Kindly provide the benefit of U/s 25AA of KVAT Act to the Appellant.

Defect No.2:-(Clarification to point ii):- Unaccounted Sales:- This allegation is not correct. The SI no 1. Sales to M/s. Zeta Innovations India Private Ltd has been accounted in our books of accounts and uploaded to KVATIS, but the TIN wrongly uploaded as 32081082401, the correct TIN is 32080530802. The Appellant hereby produce the copy of sales bill and uploaded list to KVATIS as annexure B. Regarding SI.no 2 , the Appellant would like to inform the Appellate Authority that the Appellant have not sold any items to the party mentioned in your above referred order. In the circumstances the arbitrary addition of Rs.17,338/- may ordered to be deleted by the learned appellate authority.

6.The Appellant respectfully submit that the Hon.Finance Minister proposed as per the Finance Bill, 2019, the Government has issued clear directions and guidelines for assessment process due to the unethical actions of the assessing authorities. The appellant most respectfully pray that the benefits offered in the Finance Bill, 2019 as well as the other benefits offered by the Government may be granted to the appellant.

7.Without prejudice to the above it is also submitted that the benefit of Sec 25AA may also be provided to the appellant.

8. Without prejudice to the above submissions, it is also submitted that the levy of interest period even before the service of the demand notice is illegal and arbitrary. The Assessing Authority ought to have noted that in the case of best judgment assessment, interest can be levied only after the expiry of the date specified in the demand notice. The levy of interest on demand created as per best judgment assessment is clearly illegal, arbitrary and liable to be quashed. Interest can be levied only from the date of service of the demand notice. The levy of Interest on a demand created based on mere assumptions and presumptions is also illegal and arbitrary. The liability of interest arises only on a failure to pay tax or any amount due within the time stipulated in the demand notice served with the assessment order. The levy of interest is illegal and against the principles laid down in reported decisions of the Honourable High Court in 12 KTR 43, & 15 KTR 101, & 15 KTR 485

[Casino Hotel Vs State of Kerala]. For these and other grounds to be urged at the time of hearing, it is prayed that the return and accounts may be accepted as such and delete the entire demand.

9. On such and other grounds as may be permitted to be raised at the time of hearing, it is prayed that the appeal may be allowed by deleting the entire demand and estimation made and accepting the return and accounts.

When the appeal was posted for hearing Adv. Joy.P.F appeared and heard.

As against the contention "*Out of seven unaccounted purchase mentioned in the assessment order, the S.L. No. 2 to 7 has been accounted and uploaded to KVATIS.*" The appellant produced the corresponding purchase invoice, on which the invoice numbers are 23,19,12,17,9 and this is seen to be accounted on the uploaded list but on the list on unaccounted purchase that was given from office the invoice numbers are 24,20,13,18,10 rest every items are the same. Hence it is evident that it is only a mistake on the part of the seller while he was entering the invoice number, as the same stands accounted on the appellants uploaded list this can be treated to be accounted transaction and so it is directed to delete the same from the assessment along with its GP and modify order accordingly. Other contentions are disallowed .

Assessing Authority is directed to modify and issue orders accordingly.

**Result: Modified.**

**ASSISTANT COMMISSIONER (APPEALS )**

**THRISSUR**

To

*The Appellant through the Authorized Representative,  
Copy submitted 1.Joint Commissioner(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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