

PROCEEDINGS OF THE ASSISTANT COMMISSIONER(APPEALS)

COMMERCIAL TAXES,ALAPPUZHA

PRESENT: S. PRASANNA

Date of order	:-	25.01.2020
Appeal no	:-	KVATA(ALPY)372/18
From the order of the	:-	State Tax Officer, 2nd Circle, Alappuzha
Year of assessment	:-	2016-17
Name of appellant	:-	M/s.Alleppey Company Ltd, TAC House, North Vadaikanal Road, Alappuzha
Instituted on	:-	31.01.2019
Date of hearing	:-	13.12.2019
Present for appellant	:-	Sri.A. Mony, Chartered Accountant

APPELLATE ORDER AND GROUNDS OF DECISION

The appeal filed against the assessment order of State Tax Officer, 2nd Circle, Alappuzha, Order No.32040669295/2016-17/KVAT dated.31.01.2019. The assessment completed based on KVATIS scrutiny. The defects found were absence of records in Form No.H for Rs.26,38,817/- processing charge for Rs.4,62,707/-, sale of plant and machinery not reported in the annual return for Rs.1,09,36,108/-, other income received with no supporting documents for Rs.1,39,170/-, unaccounted purchases and excess IPT claim. The assessing authority estimated the above suppressed turnover added back equal addition for probable omission and suppression, and levied tax plus interest. Aggrieved by the order, the dealer defend the case on the following grounds.

1. The order of the assessing authority as is unsustainable in law and on the facts of the case.
2. The Form H for the amount of Rs.26,38,817/- was to be filed and time for filing an opportunity was not granted by the assessing authority. Hence the assessment of Rs.26,38,817/- for want of Form H declaration may be dropped.
3. It was clearly replied with substantial proof that the sale of Plant and Machinery represents the amount of accumulated aggregated total sales/disposal of assets as depicted in the Fixed asset statement in the audited Balance Sheet. The figure adopted is

baseless and reply filed in that respect was not also considered. Hence the addition is based on anonymous figures and may be dropped.

4. The processing charges of Rs.4,62,707/- was only representing additional amount received on "job works" for delayed payments. The addition was made by the assessing authority without establishing any sale or transfer of property. Hence the assessment made is not legally valid.
5. The proposal for the assessment of other income of Rs.1,39,120/- is also wrong as we had submitted the entire details of "other income" which all represented only accounting adjustment and year end audit entries which has nothing to do with sale or VAT. Hence the addition is unwarranted and may be dropped.
6. The assessing authority has made an addition of Rs.56,62,260/- for mismatches in purchase were accounted by the dealer under expenses and proved before the assessing authority. Instead of allowing the input tax credit on the genuine purchases the assessing authority has added back the same for assessment calculating the gross profit of 19.55% and further making equal amount of addition under probable omission and suppression. The opportunity for following declaration/certificate from the suppliers to prove the genuinity of the transaction was not afforded. Thus the assessment is against the guidelines pronounced in the budget speech wide Para 257(2) by the Finance minister.
7. In the same lines Input Tax Credit of Rs.1,02,758/- denied against mismatches. In KVATIS although we had produced all the details of bills and accounts. Hence also the assessment was made against the guidelines cited above. Hence the denial of IPT is invalid.
8. On the above grounds and on further grounds which may be raised with the permission of the Deputy Commissioner (Appeals), the appeal in question filed.

Sri.A. Mony, Chartered Accountant, appeared and heard the case and argued based on grounds of appeal.

At the time of hearing, the appellant has produced copy of H Form connected with the stock transfer. So the assessing authority has to accept

the same subject to verification. The processing charge of Rs.4,62,707/- is properly accounted and also submitted the details relating to the same are randomly checked, hence I find some force in this case. The assessing authority shall verify these aspects and to be allowed on merit. In the result the appeal stands allowed. Order accordingly.

Result: Modified

ASSISTANT COMMISSIONER (APPEALS)
ALAPPUZHA

To The Appellant through a/r

Copy submitted to Joint Commissioner(Law)

Copy submitted to Deputy Commissioner,CT,Alappuzha

Copy to State Tax Officer, 2nd Circle, Alappuzha/File