

**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 178/19
2.Order Date	: 06.01.2020
3. Instituted on	: 05.04.2019
4. From the order of the	: No. 32081359667/2012-13 dated 27.02.2019 of State Tax Officer, Wadakkanchery.
5. Year of assessment	: 2012-13
6. Name of Appellant	: M/s. Aswathy Hardwares & Electricals
7. Turnover Assessed	: 95,15,062/-
8. Section/Rule under which assessment made	: U/s. 25(1) of KVAT Act.
9. Date of hearing	: 10.12.2019
10. Authorized Representative	: Sri Venugopal

**APPELLATE ORDER AND THE GROUNDS OF DECISION**

M/s. Aswathy Hardwares and Electricals , TIN 32081359667 filed this appeal against the assessment Order No. 32081359667/12-13 dated 27.02.2019 of State Tax Officer, Wadakkanchery which was finalized U/s. 25(1) of KVAT Act 2003.

The main grounds of appeal and statement of facts submitted are:-

Your petitioner is a dealer in Hardware & Electrical of the Karumathra Wadakkanchery disclosed a total sales turnover of Rs.84,30,590/- for the year 12-13. The State Tax Officer Wadakkanchery as per notice dated 17.12.18 unearthed certain unaccounted purchases and issued notice. In reply to the above I have filed the following reply stating that some of the purchases mentioned in the notice are accounted by me as under:-

**1.Sno.265 Bno. 11839 dated 31.03.2013 Rs.11700/- is accounted in the month of 04/13**

**KVATIS**

**2.Sno.267 Bno.8021213732 dated 31.03.13 Rs.2126.10 is accounted in the month of 04/2013 KVATIS.**

3. Sno.48 Bno. 449 dated 12.05.12 Rs.61674.01 is account in ledger on 31.03.2013 Lf No. 8.

4.Sno.163 Bno.106c000360 dated 03.12.12 Rs.56387.67 is account in

5. Sno.165 Bno. 1081 dated 13.07.12 Rs. 24669.60 is account in ledger on 31.03.2013 Lf no.9

6.Sno.167 Bno.1031 dtd 07.07.2012 Rs. 24669.60 is account in ledger on 31.03.2013 of Lf no.8

7. Sl. No.113 Bn. No. 5569 dated 30.09.2012 Rs. 8234 is double entry it is also listed sn.112.

So also the Intelligence Officer (IB) has imposed a penalty to the above unaccounted purchases already.

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Though the reply was filed the assessing authority has not verified the books of accounts by giving an opportunity of being heard to me and completed the assessment fixing a total turnover Rs. 95,15,062/- this is against natural justice. I have preferred an appeal before the Deputy Commissioner appeal against the penalty. The Hon'ble High Court of Kerala as per WPC No. 15910/2018 dated 15.05.2018 has stayed the further proceedings in this matter.

Hence I request that the demand now created U/s. 25 (1) of the KVAT Act of Rs. 1,35,342/- may please be quashed and the appeal petition may be granted. Since the petitioner is facing acute financial difficulty.

### **Grounds of appeal**

- 1. The assessing authority has erred in demanding penalty U/s. 25(1) of the KVAT Act.*
- 2. The assessment order is without any basis.*
- 3. The notice 17.12.2018 as final order dated 27.02.2019 passed by STO Wadakkanchery, may please be quashed.*

The appeal was posted for hearing, the authorised representative submitted that the assessment is unlawful and that he had filed an appeal against the penalty order which was in appeal with DC appeal in appeal no 30/18 . But now the same appeal is disposed there , Remanding the case.

From the above contentions and the reply filed by the appellant to the assessing authority it is learned that the appellant has accounted 2 of his transaction detailed above on the KVATIS but the assessing authority has not considered this on assessment rather finalised as such, which is an arbitrary act not justifiable in law. Hence it is directed that the assessing authority shall verify the accounted transaction on the KVATIS and deleted the same from the assessment along with its corresponding addition. It is also directed that the further addition is also reduced to 50%, as section 25AA specifies, and modify order accordingly.

### **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, Wadakkanchery.*
  - 2. Asst Commissioner ,SGST Dept, Thrissur.*
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