

**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 179/19
2.Order Date : 06.01.2020
3. Instituted on : 05.04.2019
4. From the order of the State Tax Officer, Wadakkanchery. : No. 32081359667/2013-14 dated 25.03.2019 of
5. Year of assessment : 2013-14
6. Name of Appellant : M/s. Aswathy Hardwares & Electricals
7. Turnover Assessed : Rs 7,97,743/-
8. Section/Rule under which assessment made : U/s. 25(1) of KVAT Act 2003
9. Date of hearing : 10.12.2019
10. Authorized Representative :

APPELLATE ORDER AND THE GROUNDS OF DECISION

M/s. Aswathy Hardwares and Electricals, TIN 32081359667 filed this appeal against the assessment Order No. 32081359667/2013-14 dated 25.03.2019 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 & Electricals of the Karumathra Wadakkanchery disclosed a total sales turnover of Rs.6375388/- for the year 13-14. The State Tax Officer Wadakkanchery as per notice dated 08.03.19 unearthed certain unaccounted purchases and issued notice giving me an opportunity of being heard on 18.03.19. Subsequently as per my request dated 19.03.19 the assessing authority has given me an opportunity to produce books of accounts on 26.03. 19. Though I have been given to produce books of accounts on 26.03.19 the assessing authority has finalized the order 13-14 on 25.03.19 A copy of adjournment letter of State Tax Officer Wadakkanchery is enclosed herewith this is against natural justice.

I have preferred an appeal before the Deputy Commissioner appeal against the penalty. The Honorable High Court of Kerala as per WPC No. 15910/2018 date. 15.05.18 has stayed the further proceedings in this matter.

KVATA 179/19

Hence I request that the demand now created U/s. 25(1) of the KVAT Act Rs. 115673/- may please be quashed and the appeal petition may be granted. Since the petitioner is facing acute financial difficulty.

The grounds of appeal submitted are:-

- 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 06.03.2019 as final order dated 25.03.2019 passed by STO Wadakkanchery, may please be quashed.*

The appeal was posted for hearing the authorised representative submitted that the appellant was already given an adjournment by the concerned Assessing authority to 26.03.2019 by an adjournment notice dated 21.03.2019 . But inspite of the adjournment the assessment was finalised on 25.03.2019 which is one day prior to the due date of hearing, this kind of finalisation is not proper in law and is in violation of natural justice.

The appellant produced the adjournment notice and the above contention is found correct if the adjournment was given and hearing was scheduled to 26.03.2019 , then bypassing this date and passing an order on 25.03.2019 is an arbitrary act and it is proved that the assessment is completed without hearing the other party, as violation of natural justice is proved, this assessment is not sustainable in law, hence the same is remanded back to the assessing authority to finalise order Afresh.

Result: Remanded.

ASSISTANT COMMISSIONER (APPEALS)

THRISSUR

To

*The Appellant through the Authorized Representative,
Copysubmitted1.Joint Commissioner(Law),SGSTDept,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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