

PROCEEDINGS OF THE ASSISTANT COMMISSIONER (APPEALS)
STATE GOODS AND SERVICES TAX, KANNUR
Present : Vineth Krishna.U

Date of Order: 28.01.2020

KVATA Appeal order VATA No.	:	VATA 185/19
Instituted on	:	18.11.2019
From the orders of the	:	Order no.32121054955/2016-17 dated. 28.02.2019 of State Tax Officer, Kuthuparamba
Year of assessment	:	2016-17
Name of appellant	:	M/s. Six-R-Kids Gallery, Mangattidam, Kuthuparamba
Turnover assessed	:	
Tax demanded Income Tax/Super Tax/CST/ST	:	Section 25(1) of the KVAT Act, 2003
Section /Rule under assessment made	:	
Date of Hearing	:	09.01.2020
Present for Appellant	:	Sri. U Mohanan, FCA

APPELLATE ORDER AND GROUNDS OF DECISION

The appellant M/s. Six-R-Kids Gallery, Mangattidam, Kuthuparamba filed appeal against the assessment order of State Tax Officer, Kuthuparamba passed u/s 25(1) of the Act issued vide proceedings dated 28.02.2019 demanding tax Rs.3630/- for the year 2016-17

The assessment for the year was revised on the basis of purchase suppression detected on scrutiny of returns with KVATIS.

When the appeal was posted for hearing Sri. U. Mohanan, FCA appeared on behalf of the appellant and was heard. The contentions put forth by the appellant are as follows.

- 1. The order of assessment passed by the State Tax Officer, Kuthuparamba, Kannur is against the facts and circumstance of the appellant's case and hence opposed to the provisions of the the KVAT Act.*
- 2. The learned Officer failed to note that all the purchases, which have been subjected to tax as not exempt, are local purchases which have already been subjected to tax at scheduled rate and hence the appellant is eligible for input tax credit on the purchases in full.*
- 3. The goods under reference which are subjected to tax @ 5% have already been subjected to tax @5% on purchases as evident from the annual return filed and hence the input tax paid on purchases should have been allowed as deduction as specified under section 11 of the KVAT Act.*
- 4. The appellant could not respond to the pre- assessment proceedings in full as the notice said to have sent is not served on the appellant. The demand notice together with the assessment order came to the knowledge of the appellant only on recovery proceedings being initiated.*
- 5. There is no purchase omission as stated by officer for the year under reference. Moreover even if there is omission, it is only local purchase which is liable to be taxed as specified under section 25AA, on which input tax should have been*

allowed in full.

The appellant further prayed that the impugned assessment order may be set aside on the above grounds.

I have considered the contentions raised by the appellant the records before me and the merits in it.

The issue involved in this case is as to the sustainability of assessment made.

The appellant argued that there is no purchase omission as stated by the assessing authority. They further stated they are eligible for the benefits of Section 25AA of the Act.

The appellant apart from their arguments failed to produce any documents in proof their of. Hence the same cannot be accepted. The details of the purchase was given to the appellant with reasonable certainty. As such they ought to have discharged the burden of proof. They failed in discharge the same. The purchases can only be considered as effected by the appellant but failed to account and return. Hence assessment made in this behalf is sustainable and hence upheld.

The argument of appellant that they are eligible for benefit of Section 25AA cannot be accepted. Section 25AA was inserted with effect from 1/4/2019 and hence will apply only to assessment made therefrom. Hence their arguments is rejected.

The argument of appellant vis-a-vis equal addition made has force. As only single purchase suppression is detected, there is no pattern of suppression. Hence assessment made in this behalf is not sustainable. The assessing authority shall delete the addition made towards equal addition in this behalf and modify the assessment accordingly.

No other points for consideration. Ordered accordingly.

RESULT : MODIFIED

Assistant Commissioner (Appeals),
Kannur.

To : The appellant through Advocate
Copy submitted to The Joint Commissioner (Law), CCT, Tvpm.
The Deputy Commissioner, Kannur

Copy to :
The Law Officer, Commercial Taxes, Kozhikode
The Inspecting Assistant Commissioner, Kannur
The State Tax Officer, Kuthuparmaba
Spare/index/file