

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

Date of Order: 31.01.2020

KVATA Appeal order VATA No. : VATA 193/19
Instituted on : 25.11.2019
From the orders of the : Order no.32120872547/2012-13
dated.24.09.2019 of State Tax Officer,
1st Circle, Thalassery
Year of assessment : 2012-13
Name of appellatant : M/s. Metro Bazar, Thalassery
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 : 28.01.2020
Present for Appellant : Sri. K.K. Vijayan, Chartered Accountant.

APPELLATE ORDER AND GROUNDS OF DECISION

The appellatant M/s. Metro Bazar, Thalassery filed appeal against the assessment order of State Tax Officer, 1st Circle, Thalassery. passed u/s 25(1) of the Act issued vide proceedings dated 24.09.2019 demanding tax Rs.8030/- for the year 2012-13.

The assessment originally completed was remanded by the Deputy Commissioner(Appeals) to dispose the matter afresh directing the appellatant to produce entire books of accounts. The assessment was finalized on the basis of purchases found unaccounted by the appellatant.

When the appeal was posted for hearing Sri. K.K. Vijayan, Chartered Accountant appeared on behalf of the appellatant and was heard. The contentions put forth by the appellatant are as follows.

1. *The order passed under the KVAT Act by the State Tax Officer, 1st Circle, Thalassery, is against the facts and circumstances of the appellatant's case.*
2. *It is humbly submitted that addition made under the head unaccounted purchase amounting Rs.6,34,738/- is not correct.*
3. *It is also humbly submitted that all the purchase are accounted by the appellatant and some of the purchases are accounted as Fixed Assets and Packing Materials in our books of accounts. Moreover, in respect of fixed assets and packing materials we have not claimed the Input Tax credit.*

The appellatant also filed the following argument notes:-

The appellatant herein seeks the leave of the learned Assistant Commissioner of (Appeals), Commercial Taxes, Kannur to

file the following written submissions. The facts have been given in Statement of Facts and reproduced at appropriate places;

1.0 Ground No. 2 and 3 – Unaccounted Purchases

1.1 The appellant purchased a goods vehicle from M/s Apco Automobiles (P) Ltd vide invoice No. 19 dated 07/05/2012 (copy of invoice attached) amounting Rs. 2,12,557/- and the same accounted as capital item in Balance Sheet and not reflected in purchase list. We have not claimed input tax on the item. Copy of ledger account of Fixed Assets, RC Book, RC latest position as per Motor Vehicle Department website and Fixed Assets Schedule of Audited Balance Sheet enclosed for your perusal.

1.2 The appellant purchased a weighing machine from M/s Univend Associates (P) Ltd vide invoice No. MT/338/1212 dated 01/01/2013 (copy of invoice attached) amounting Rs.54480/- and the same accounted as capital item in Balance Sheet and not reflected in purchase list. We have not claimed input tax on the item. Copy of ledger account of Fixed Assets and Fixed Assets Schedule of Audited Balance Sheet enclosed for your perusal.

1.3 The appellant has no transaction with M/s. Malabar Food and Allied Products. They by mistake entered our TIN number while uploading sales details during 2012-13. Copy of letter received from the party enclosed for your perusal.

1.4 The appellant purchased computer stationery, packing materials, UPS Battery etc. from following parties as detailed below and accounted the same under the heads Printing and Stationery, Packing Materials, Repairs and Maintenance etc. These items not reflected in our purchase list and we have accounted as expenses in Profit and Loss account. Copies of invoices and ledger accounts enclosed for your perusal.

(a) Stallion Systems and Solutions (P) Ltd

Sl No	Date	Invoice No	Amount in ₹
1	03-05-2012	KMC 1613	883.00
2	03-05-2012	KTC 1361	630.00
3	08-05-2012	KTC 1420	2520.00
4	08-08-2012	KTC 2582	1260.00
5	17-09-2012	KMC 4778	4126.00
6	20-12-2012	KMC 6859	4126.00

(b) Kumar Home Appliances

Sl No	Date	Invoice No	Amount in ₹
1	04-06-2012	1211	375.00
2	02-10-2012	3791	2100.00
3	02-10-2012	3810	450.00
4	12-10-2012	4014	1050.00

(c) Univend Associates (P) Ltd

Sl No	Date	Invoice No	Amount in ₹
1	16-01-2013	MT/354/12-13	4335.00
2	08-02-2013	MT/383/12-13	4350.00

(d) Golden Star Packaging

Sl No	Date	Invoice No	Amount in ₹
1	14-08-2012	573	15999.00
2	17-08-2012	582	10382.00

(e) Phoenix Poly Pack Industries

Sl No	Date	Invoice No	Amount in ₹
No			

1	13-08-2012	628	14638.00
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1.5 The appellant had accounted all the purchases in their books of account. The appellant had uploaded purchases in KVATIS on invoice wise. Some of our suppliers uploaded the sales invoices on tax percentage basis. This is the major reason for differences as pointed out by the learned Assessing Officer.

For example in case of Sabari Distribution Pvt Ltd., they have single invoice having 5% and 13.5% taxable goods. They have uploaded the sales in KVATIS on tax percentage wise instead of invoice wise, which may reflect as two invoices in KVATIS having same invoice number and date. The appellant uploaded the same purchase in KVATIS on invoice wise as a single invoice.

Sl No	TIN	Name of Party	Invoice No	Date	Value of Goods	Tax Amount	Total Invoice
1	32071229774	Sabari Distribution P Ltd	KNR0203404	19/12/12	53002.93	4995.25	57998.18

The appellant uploaded the invoice in KVATIS as serial number 352 of purchase list of December 2012. The supplier M/s. Sabari Distribution Pvt Ltd uploaded the sales invoices as follows:

1	32071229774	Sabari Distribution P Ltd	KNR0203404	19/12/12	25413.70	1270.69	26684.42
2	32071229774	Sabari Distribution P Ltd	KNR0203404	19/12/12	27589.30	3724.55	31313.80

M/s. Sabari Distribution P Ltd uploaded the single invoice on tax percentage wise and reflected in KVATIS as two invoices.

Sl No	TIN	Name of Party	Invoice No	Date	Value of Goods	Tax Amount	Total Invoice
1	32071229774	Sabari Distributi on P Ltd	KNR0126139	16/05/12	37109.43	3653.21	40762.64

The appellant uploaded the invoice in KVATIS as serial number 320 of purchase list of May 2012. The supplier M/s. Sabari Distribution Pvt Ltd uploaded the sales invoices as follows:

1	32071229774	Sabari Distributi on P Ltd	KNR0126139	16/05/12	15960.30	798.02	16758.32
2	32071229774	Sabari Distributi on P Ltd	KNR0126139	16/05/12	21149.60	2855.19	24004.77

M/s. Sabari Distribution P Ltd uploaded the single invoice on tax percentage wise and reflected in KVATIS as two invoices.

1.6 In view of the above submissions, it is prayed that learned Assistant Commissioner of (Appeals), Commercial Taxes, Kannur be pleased to allow the above ground.

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 all the purchases are accounted by them and some of them are accounted as fixed assets and packing materials in the books of accounts. They stated that they had not claimed input tax credit over purchase of fixed assets and packing materials. They stated that they purchased goods vehicle from M/s Apco automobiles (P) Ltd vide invoices No.19/07.05.12 for Rs. 2,12,557/- and was accounted as capital item in balance sheet. The appellant produced copy of invoice, RC book, schedule for fixed assets, copy of details from the web site of Motor Vehicles Department and corresponding ledger. They further stated that they purchased a weighing machine from M/s Univend Associates Pvt Ltd vide invoice no. MT/338/1212 dated 01.02.2013 amounting Rs.54,480/- and the same was accounted as capital item in the balance sheet. The appellant produced copy of invoice, schedules to fixed assets and ledger. They denied the purchase from M/s Malabar Food & Allied Products. The appellant also produced a letter from M/s Malabar Food & Allied products stating certain bill numbers which were given to the Akshaya Centre for e-filing was mistakenly entered. They stated that they purchased computer, stationery, packing material, UPS battery etc. from some parties and accounted the same under printing and stationery, packing materials, repairs and maintenance. The appellant produced ledger in proof of it. They stated that they accounted all purchases in books of accounts and uploaded purchases in KVATIS invoice-wise whereas some of suppliers uploaded sales invoices tax rate wise.

They stated that M/s Sabari distribution Pvt Ltd had uploaded their invoices twice on tax rate basis where as they uploaded as a single invoice.

The argument of appellant has been verified with documents produced. The appellant produced the copy of invoice, RC book, ledger account, details from Motor Vehicle Department site, fixed assets schedule etc. in proof of their arguments that the purchase of vehicle was a capital goods purchase. The argument of appellant is well substantiated with documents produced. It is proved that the vehicle was not purchased for resale. The appellant is directed to produce the aforesaid documents before the assessing authority within three weeks of receipt of copy of this order. The assessing authority shall verify the same and delete from assessment if found that the purchase was effected as their fixed asset. The appellant is also directed to produce the invoice, ledger and fixed assets schedule in proof of purchase of weighing machine before the assessing authority. The assessing authority shall verify and delete from assessment on proof that the purchase was a fixed asset. The letter produced from M/s Malabar Food and Allied Products has been verified. In certain cases, the details shown pertain to the appellant himself eg. Bill no 425,277,260, 289 etc. In such cases, it is clear that the sales was effected to the appellant itself and hence assessment made in this behalf is confirmed. In other cases the assessing authority shall verify the same in the light of the aforesaid letter and delete from assessment if found not related to appellant. The appellant shall produce the letter before the assessing authority within the time stipulated supra.

The appellant produced copy of invoice and ledger to prove the purchases which were argued by them as towards purchase of printing and stationery. On verification of the same, there is force in their arguments. The appellant is directed to produce the aforesaid documents before the assessing authority within the time stipulated supra. The assessing authority shall verify the same and delete from assessment cases which pertain to printing and stationery, repairs and maintenance etc. and modify the assessment. The argument of the appellant vis-a-vis purchase from Sabari Distribution (invoice 0203404 & 0126139) has been verified. They produced copy of uploaded list in proof of their arguments that they uploaded the invoices, but the supplier uploaded it tax rate-wise. On verification, their arguments is found correct. The assessing authority had already deleted several cases in which defect was of this nature. The appellant is directed to produce the uploaded purchase list as discussed above before the assessing authority within three weeks of receipt of copy of this order. The assessing authority shall verify the same and delete from assessment if found accounted by the appellant and modify the assessment.

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, 1st Circle, Thalassery
Spare/index/file

