

PROCEEDINGS OF THE ASSISTANT COMMISSIONER (APPEALS)
STATE GOODS AND SERVICES TAX, KANNUR

Present : Vineth Krishna.U

Date of Order: 23.01.2020

KVATA Appeal order VATA No.	:	VATA 200/19
Instituted on	:	06.12.2019
From the orders of the	:	Order no. 32121091214/2016-17 dated.27.10.2018 of State Tax Officer II, Kuthuparamba
Year of assessment	:	2016-17(CST)
Name of appellant	:	M/s. Plaza Wood & Furniture, Kuthuparamba
Turnover assessed	:	
Tax demanded Income Tax/Super Tax/CST/ST	:	Rule 6(5), CST (Kerala) Rules, 1957
Section /Rule under assessment made	:	
Date of Hearing	:	09.01.2020
Present for Appellant	:	Advocate N. Vijayan

APPELLATE ORDER AND GROUNDS OF DECISION

The appellant M/s. Plaza Wood & Furniture, filed appeal against the assessment order of State Tax Officer, Kuthuparamba passed u/s rule 6(5) of CST rules issued vide proceedings dated 27.10.2018 demanding tax Rs.302393 /- for the year 2016-17

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

1. *The order of the assessing authority is against law, facts and circumstances of the case.*
2. *The assessment for the year 2016-17 is barred by limitation as the assessment ought to have been completed within one year from the notification of amendment to the constitution of India.*
3. *The assessment order passed is ex-parte. The appellant was not given sufficient time to file reply to the notice so also to produce the required C Forms. The delay in filing the C Forms were due to the delay in receiving the same from the suppliers. There is violation of natural justice in the case as an effective opportunity of being heard was not given after the issue of PA Notice.*
4. *The appellant is now in possession of all the C Forms totaling Rs.24,58,687/- except one for Rs.5017/-. The appellant may therefore be given an opportunity to file those C Forms before the assessing authority Copies of all the C Forms on which concessional rate is eligible are submitted herewith.*
5. *The delay in furnishing the C Forms was not intentional . It was due to the delay in receiving the C Forms from the purchasers.*
6. *The appellant is not liable to pay any interest in the case as no tax is due from him. Interest will run only after the service of the Demand Notice.*

The appellant further prayed that the appeal may be allowed on the above grounds.

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

The assessment under the CST Act for the year 2016-17 was completed by assessing authority under full rate for non-producing of C-forms. The appellant at the time of hearing has produced C-forms for Rs.2458687/-/-and stated that non-production of C-forms in time was not deliberate, but for reasons beyond their control.

The appellant requested that one more opportunity may be given for submitting the aforementioned C- Forms before assessing authority.

It is a fact that there was delay in submitting C-forms before the assessing authority. However considering the fact that the delay was not deliberate and that they had filed C-form for Rs.2458687/-, I find it only just to afford one more opportunity to the appellant to produce the same before the assessing authority. The appellant is directed to produce the original C-forms declaration before the assessing authority within three weeks of the receipt of copy of the order. The assessing authority shall verify the same and admit it to the extent found admissible and pass modified orders accordingly.

No other points for consideration. The assessing authority is directed to modify the assessment order to the extent discussed above.

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.