

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

Date of Order: 30.01.2020

KVATA Appeal order VATA No.	:	VATA 204/19
Instituted on	:	06.12.2019
From the orders of the	:	Order no.32121079784/2012-13 dated. 15.05.2019 of State Tax Officer, Kuthuparamba
Year of assessment	:	2012-13
Name of appellatant	:	Sri.Dinesh Kumar, M/s. Daamini Kids Gold and Silver Jewellery, 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	:	18.01.2020
Present for Appellant	:	Sri. K. Babu, Adocate

APPELLATE ORDER AND GROUNDS OF DECISION

The appellatant Sri. Dinesh Kumar, M/s. Daamini Kids Gold and Silver Jewellery, Kuthuparamba filed appeal against the assessment order of State Tax Officer, Kuthuparamba passed u/s 25(1) of the Act issued vide proceedings dated 15.05.2019 demanding tax Rs.25080/- for the year 2012-13

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. K. Babu, Advocate appeared on behalf of the appellatant and was heard. The contentions put forth by the appellatant are as follows.

- 1. The order of the State Tax Officer-1, Goods & Service Taxes, Kuthuparamba, Kannur is opposed to law, facts and circumstances of the case and is highly illegal and unjust.*
- 2. The assessment order is passed in violation of the principles of natural justice and is not sustainable. The appellatant was not given an opportunity of being heard. More over assessment for 2012-13 itself is a time barred one.*
- 3. The appellatant had effected purchase from M/s. Saraswathi Abharana sala, but the accountant omitted to upload the same in the KVATIS Site. As the assessment order was passed after the introduction of Section 25AA in the Finance Act 2019, the assessing authority have not considered this provision while passing the order. So the Appellate Assistant Commissioner may be pleased to cancel the assessment and grant me permission to complete the proceeding under Section 25AA.*
- 4. The appellatant has maintained true and correct accounts.*
- 5. Without prejudice to the above, the equal amount of addition made with 10% GP is highly excessive and arbitrary*

The appellatant 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 the assessment order is passed in violation of principles of natural justice. They stated that they omitted to upload certain purchases in KVATIS. They further stated that they are entitled to be assessed under Section 25AA of the Act. They stated that addition of equal amount made is excessive.

The assessing authority finalized the assessment only after considering the objection filed by the appellant. Opportunity of personal hearing was also afforded. As such there is no violation of natural justice as alleged.

The assessment was finalized after the insertion of Section 25AA of the Act. As such the disciplines in assessment stipulated there in is squarely applicable in this case. The appellant has also admitted the purchases shown to have suppressed. The assessing authority is directed to modify the assessment invoking the guidelines stipulated under Section 25AA of the Act.

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, Kuthuparamba

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