

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

Date of Order: 20.01.2020

KVATA Appeal order VATA No. : VATA 214/19
Instituted on : 26.12.2019
From the orders of the : Order no. 32121004015/2012-13
dated. 30.10.2019 of State Tax Officer,
Kuthuparamba
Year of assessment : 2012-13
Name of appellant : M/s. Parvathy Stores, Iritty
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. Muraleedharan.G, Sales Tax Practitioner

APPELLATE ORDER AND GROUNDS OF DECISION

The appellant M/s. Parvathy Stores, Iritty filed appeal against the assessment order of State Tax Officer, Kuthuparamba passed u/s 25(1) of the Act issued vide proceedings dated 30.10.2019 demanding tax Rs.141919/- for the year 2012-13

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

When the appeal was posted for hearing Sri. Muraleedharan.G, Sales Tax Practitioner 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 circumstance of the case.*
2. *The assessment of the appellant for the year 2012-13 was completed under section 25(A) of the KVAT ACT on an estimated turnover of Rs.3,61,57,201.00 as against Rs.3,50,75,419.00 reported in the annual return filed.*
3. *The grounds of assessment as stated in the order is that there is a suppression of sales amounting Rs.7,21,188.00. Hence the alleged turnover with 50% of the same added towards probable omission and suppression along with the reported turnover.*
4. *The list of alleged suppressed sales are verified by the appellant and found that all the sales in the list were properly uploaded and tax due on it were duly remitted. All the details of the sales were uploaded along with the monthly returns submitted.*
5. *The reason for the mismatch in KVATIS is due to the reason that the purchasers uploaded only part of the number in the issued invoices. All the invoices issued and uploaded by the appellant start with the alphabets "PAR". This was*

omitted by the purchasers while uploading invoice numbers.

6. *In few cases, single invoice issued for the commodities of different tax rates. In the invoices uploaded by purchasers the figures are seen bifurcated according to tax rates. However all the sales were properly uploaded and tax due on it duly remitted along with the monthly returns.*
7. *There is not even a single case of purchase or sales suppression revealed on KVATIS scrutiny. Hence the addition made for probable omission and suppression is without any justification.*
8. *As all the sales were uploaded and included in the returns and accounts, and tax due duly paid, there is no reason to complete the assessment only based on the report given by the Accountant General. The assessing authority has not even verified the report with that of the list uploaded before initiating assessment proceedings under section 25(A) of the Act.*
9. *As there is no suppression or omission in return and accounts, the order of assessment is liable to be set aside.*

The appellant further prayed that the impugned assessment the 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 they had verified the list of alleged suppressed sales and found that all sales in the list are properly uploaded and tax due was remitted. They further stated that reason for mismatch in KVATIS is due to reason that purchasers uploaded only part of number in the issued invoices where as all invoices were uploaded by them with alphabet 'PAR'. They stated that in few cases the purchasers uploaded purchases according to tax rate where as they uploaded fully. They also objected against addition made towards probable omission and suppression.

The appellant produced copy of uploaded sales list in support of their arguments. On verification of their argument with the document produced, the same has force. Most of the mistakes are due to inclusion of abbreviation 'PAR' in the invoice and uploading of purchases according to tax rate by the purchasers. 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 those cases found genuine and modify the assessment.

The argument of appellant vis-a-vis addition made on account of sales suppression shown to have made has been verified. As there is no pattern of suppression involved, assessment made on sales suppression shown to have made is not sustainable. The assessing authority shall delete the assessment made in this behalf 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, Kuthuparumba
Spare/index/file

