

**PROCEEDINGS OF THE ASSISTANT COMMISSIONER (APPEALS)**  
**STATE GOODS AND SERVICES TAX DEPARTMENT, THRISSUR**

PRESENT: SMT. SHYLA PRIYA .V LL.B

- 1.KVAT Appeal Number : KVATA 220/19
- 2.Order Date : 18.02.2020
3. Instituted on : 27.04.2019
4. From the order of the : No. R.10(E) 27/12-13 dtd 25.02.2019 of State Tax Officer (Enquiry), Thrissur
5. Year of assessment : 2012-13
6. Name of Appellant : M/s. Lamiya Silks
7. Turnover Assessed : 4500/- (Penalty)
8. Section/Rule under which assessment made : U/s.47(6) of KVAT Act 2003.
9. Date of hearing : 07.01.2020
10. Authorized Representative : P. Ramankutty.

**APPELLATE ORDER AND THE GROUNDS OF DECISION**

M/s. Lamiya Silks, filed this appeal against the penalty Order No. R.10(E) 27/12-13 dtd 25.02.2019 of State Tax Officer (Enquiry), Thrissur which was finalized u/s. 47 (6) of KVAT Act 2003.

***The main grounds of appeal submitted are:-***

*1.The appellant is much aggrieved with the penalty orders passed by the State Tax Officer (Enquiry) on 25-02-2019 u/s. 47(6) of the KVAT ACT, 2003 (order No. R10(E) 27/12-13 dated 25-02-2019) for the year 2012-13. The orders passed by the Enquiry Officer is arbitrary and opposed to the law and facts.*

*2.The goods under transport were supported by the invoice No,564 dated 9-04-2012 issued by M/s, Beetees Fabrics & garments, Royapuram, Chennai for Rs,39,525- including CST Rs.775- collected by the supplier at the concessional rate of 2%. The appellant is a registered dealer having TIN No.32081075234 C w.e.f 21-4-2005, amended on 13-6-2008,3-4-2009,11-7-2011 etc. Copy of the registration certificate is attached herewith for favor of kind verification.*

*3.The omission to write or record the TIN NO in the invoice happened is only a technical mistake. The appellant has renewed the certificate of registration upto date,*

*4. In response to the notice issued on 21-05-2018, the authorized representative has produced the books of accounts and print copy of the return filed for the month of April,2012 to prove that the genuineness of the transport of the goods before the Enquiry Officer on 27-06-2018. The enquiry Officer has verified the books of accounts and print copy of the return for the month of April,2012 and put his signature in certain records.*

5. Again , with reference to the notice issued on 11-02-2019, the authorized representative produced the same books of accounts and print copy of the return for the month of April,2012 before the Enquiry Officer on 22-02-2019. The Enquiry Officer verified the documents and books of accounts which were already examined on 27-06-2018 .At the time of verification, the authorized representative has explained that the appellant has valid registration certificate issued on 21-04-2005 and amended on 13-06-2008, 3-04-2009, 11-07-2011 etc and submitted copy of the Registration certificate and print copy of the return for the month of April,2012. Since it was found by the Officer that the former officer has put signature in the books of accounts and other documents on 27-06-2018, the present officer has not put signature in token of having verified the books of accounts etc. The allegation raised by the enquiry Officer that no documents produced to prove the genuineness if any in this matter to prove claim id against the fact.

6. The only defect pointed by the Inspector as well as the enquiry Officer for the collection of security deposit and penalty was the omission to write the TIN number 32081075234C. In Sangeetha Readymade World V. State of Kerala, the Hon'ble High Court of Kerala held that the omission to write the R.C. Tin Number in the invoice is only a technical mistake which warrants no imposition of penalty u/s.47(6) of the Act ( 17 VST).

When the appeal was posted for hearing Sri. Ramankutty appeared and heard, he stated that the omission to write the TIN Number in the invoice is only a technical mistake which warrants no imposition of penalty.

The appellant produced the Registration certificate which shows that the appellant is having registration from 23.12.2009. the penalty was imposed by the Enquiry officer as he had suspected that the appellant is not a registered dealer. The interception was on 13.04.2012. from the registration certificate it is evident that the appellant has registration at the time ,the allegation suspected by the Intelligence officer is void abinitio, hence the penalty is found unlawful.

The penalty order is herewith annulled. It is directed to refund the amount collected against the penalty.

**Result: Annulled**

**ASSISTANT COMMISSIONER (APPEALS )**

**THRISSUR**

To

The Appellant through the Authorized Representative,  
Copysubmitted 1. Joint Commissioner(Law),SGST Dept, Thiruvananthapuram,  
2 . Deputy Commissioner ,SGST Dept , Thrissur

Copy forwarded to

1. State Tax Officer, Enquiry Thrissur

2. Asst Commissioner, ,SGST Dept, Thrissur

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