

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 221/19
2.Order Date : 18.02.2020
3. Instituted on : 27.04.2019
4. From the order of the : No. R.10(E) 192/12-13 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) 192/12-13 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:-

The appellant is much aggrieved with the penalty orders passed by the State Tax Officer(Enquiry), Thrissur imposing penalty u/s.47(6) of the KVAT Act,2003 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 are dress materials as per sales bills issued from the following suppliers outside the state as under:

Sl.No.	Name of supplier	Invoice No.	date	Description of goods	Value
1,	M/s.Kavitha Enterprises	12/1675	dated17-09-12	.Dress materials	
	Rs.184,880-	Ahammadabad.			
2,	M/s.Maruthi corporation,	12/1674	dt.17-09-2012	do	282,355-
	Ahammedabad.				
3.	M/s.Ashadeep Corporation	.12/1784	dt.17-09-2012.	Do	
	1,77,295-	Ahammedabad.			

4.M/s.K.P.Corporation,Revdibazar. 1682 dt.17-09-2012. Do
227.510 Ahammedabad.

Thus the goods under transport are supported by proper and valid documents issued by the dealers outside the state as prescribed u/s.46(3) of the KVAT act,2003. Since the items which will come under textile fabric as per the document, are exempted from payment of tax no central sales tax was collected by the suppliers. The dress materials are only cut pieces intended to be converted as readymade garments according to shape of orders. The allegation raised by the Inspector of the STCP Walayar that the goods under transport was readymade churidar is against the fact. The Inspector has not examined the goods under transport. He has examined the documents only accompanied the goods under transport.

The Authorized Representative appeared and produced the books of accounts on the appointed date and explained that the goods under transport were dress materials as specifically stated in the supporting sales invoices issued by the suppliers and that the Inspector has not checked and verified the goods. The Authorized representative as also pointed out that the goods under transport have ben accounted in the books of accounts (vide ledger page. But the Enquiry Officer has not put the signature below the entries made in the books. Since the Inspector has not put his signature in the books of accounts the Authorized Representative is not able to insist him to put his signature in the books of accounts produced, The copies of Day Book page 195, 339, 347 etc are submitted herewith. 4. Without prejudice to the above it is submitted that the value of goods under transport was Rs. 872,020- whereas the Inspector has estimated the value of at Rs. 910000/- The value estimated by the Inspector has no nexus with the materials on record. The findings made by the Enquiry Officer that at the time of enquiry the authorized representative of the firm appeared on 22-02-2019, and that no documents produced to prove the genuiness if any in this matter to prove the claim is against the the truth and unsustainable in view of the above facts.

. The actual amount of Security Collected is 91000/- whereas the Enquiry Officer has imposed penalty at Rs. 4500/-. The Enquiry Officer has not applying his mind properly for disposal of the crime files u/s 47(6) of the Act.

For these and such other reasons that may be raised at the time of hearing it is prayed that the Hon'ble Assistant Commissioner (Appeals) may be pleased to set aside the orders of penalty and also to direct the assessing authority to refund the amount of amount of security collected or to grant appropriate relief,

When the appeal was posted for hearing Sri. Ramankutty appeared and heard. His contention is that the transaction is accounted and there is no reason to impose an penalty suspicion attempt to evasion of tax.

On verification of the records the penalty is seen to be imposed due to misclassification on the description of goods, taxable item of Readymade Churidar was misclassified as dress material . Misclassification is clearly evident here . It is no doubt that the transportation and transactions would have been unnoticed, but for the detention. It is thereafter found that considering the facts and figures it is proved that the consignor as well as the consignee maliciously colluded to defraud the exchequer and thereby a clear attempt to evade tax legitimately due to the State Exchequer is involved in this case. Hence the penalty is lawful and upheld. Appeal is dismissed .

Result: Dismissed

ASSISTANT COMMISSIONER (APPEALS)

THRISSUR

To

The Appellant through the Authorized Representative,

Copysubmitted 1. Joint Commissioner(Law),SGSTDept,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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