

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 223/19
2.Order Date	: 29.02.2020
3. Instituted on	: 29.04.2019
4. From the order of the	: No. 32081236784/2012-13 dtd 26.03.2019 of State Tax Officer,Kunnamkulam.
5. Year of assessment	: 2012-13
6. Name of Appellant	M/s. Baby Stores
7. Turnover Assessed	: Rs. 1,67,115/-
8. Section/Rule under which assessment made	: U/s. 25 (1) of KVAT Act 2003
9. Date of hearing	: 26.02.2020
10. Authorized Representative	: Sri. Agin Roy.

APPELLATE ORDER AND THE GROUNDS OF DECISION

M/s. Baby Stores TIN 32081236784 filed this appeal against the assessment Order No.32081236784/2012-13 dtd 26.03.2019 of State Tax Officer,Kunnamkulam which was finalized U/s. 25 (1) of KVAT Act 2003.

The main grounds of appeal submitted are:-

1. The assessing authority has failed to evaluate the reply filed by the appellant in the correct perspective and in the light of applicable legal provisions. This is in gross violation of the principles of natural justice in the light of the judgment of the Hon'ble Supreme Court in Asst. Commissioner, Commercial Taxes Department, Works Contract and leasing, Kota vs. Shukla and brothers [(2010) 30 VST 114 (SC) and also of the Hon'ble High Court of Kerala in M.S. Jewellery vs. Assistant Commissioner (Assessment) (1994) 2 KTR 389 (Ker.)
2. The only defect pointed out in this order is regarding the absences of debit note to prove the genuineness of the purchase return reported in the books and annual return. While submitting evidence at the first chance the dealer has already produced the credit note and ledgers corresponding to the purchase return, this was more than enough to prove the purchase return. But the officer rejected the evidence without any

ground and issued the order without affording an opportunity to the dealer. Here the assessing officer has grossly erred in law in not affording the appellant an opportunity of being heard where the reply filed by the appellant was not acceptable to him. This is in gross violation of the principles laid down by the Hon'ble High Court in *Suzion Infrastructure Services Vs. Commercial Tax Officer (WC), Ernakulam [2010 (3) KHC 299]* And In *C.K. Sunny Vs. Addl. Sales Tax Officer-I (2004) 12 KTR 360 (Ker.)*. The assessment is therefore bad in law.

3. Regarding the debit note reported in the annual return and the audit report there is no difference. And in case of local purchase return to the registered dealers we have already paid the tax amount which is evident from the annual return.

Particulars	Annual Return	Audit Report	Books
Interstate Purchase Return 12.5%	5,195.00	5,195.00	5,195.00
Interstate Purchase Return 5%	119,812.00	119,812.00	119,812.00
Local Purchase Return to registered dealers 5%	20310.00	20,310.00	20,310.00
Total	145317.00	145,317.00	145,317.00

In order to prove the genuineness of the purchase return, we are hereby producing the debit note and purchase return ledgers. It is also requested that the learned assistant commissioner may also allow such other grounds as may be permitted to be raised at the time of hearing. And also due to the practical difficulty in filing the aforesaid evidence along with the appeal form, it is requested to allow us to produce the same at the time of hearing. As a law obeying registered dealer, it is prayed that the learned Appellate assistant Commissioner may kindly consider the grounds and evidence submitted before you and server justice.

When the appeal was posted for hearing Sri. Agin Roy , STP appeared for the appellant.

The difference assessed of Rs. 1,45,317/- relates to purchase and has produced the credit note against interstate purchase and ledger, hence this may be verified with State Tax Officer. The assessment was completed only for the reason that the debit notes were not produced.

KVATA 223/19

At the time of hearing the appellants representative produced the Credit notes and the ledger folio , as the appellant has the documents with him I find that it is necessary to verify these at the hands of the assessing authority with books of accounts and eliminate eligible and proved portion of turnover from assessment. Assessing authority is Directed to modify and issue orders accordingly.

Result: Modified

ASSISTANT COMMISSIONER (APPEALS)

THRISSUR

To

*The Appellant through the Authorized Representative,
Copysubmitted1.Joint Commissioner(Law),SGSTDept,Thiruvananthapuram,
2 . Deputy Commissioner ,SGST Dept , Thrissur*

Copy forwarded to

- 1. State Tax Officer, Kunnamkulam*
- 2. Assistant Commissioner , Thrissur..*

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