

PROCEEDINGS OF THE ASSISTANT COMMISSIONER (APPEALS)
STATE GOODS AND SERVICES TAX DEPARTMENT, THRISSUR
PRESENT: SMT. SHYLA PRIYA .V LL.B

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| 1.KVAT Appeal Number | : KVATA 277/19 |
| 2.Order Date | : 18.02.2020 |
| 3. Instituted on | : 01.07.2019 |
| 4. From the order of the | : No. 32081377195/16-17 dtd 31.05.2019 of State Tax officer, Wadakkanchery. |
| 5. Year of assessment | : 2016-17 |
| 6. Name of Appellant | : M/s. Sone Agencies. |
| 7. Turnover Assessed | : 3,66,89,666/- |
| 8. Section/Rule under which assessment made | : U/s. 25(1) of KVAT Act 2003. |
| 9. Date of hearing | : 21.01.2020 |
| 10. Authorized Representative | : Adv. V.R Padmanabhan. |

APPELLATE ORDER AND THE GROUNDS OF DECISION

M/s. Sone Agencies, TIN 32081377195 filed this appeal against the assessment Order No. 32081377195/16-17 dtd 31.05.2019 of State Tax Officer, Wadakkanchery which was finalized U/s. 25(1) of KVAT Act 2003.

The main grounds of appeal submitted are:-

The impugned order of the State Tax Officer, Wadakkanchery for the year 2016-17 u/s 25 (1) of the Act is opposed to law, facts and circumstances of the case and, therefore, is liable to be set aside.

2. The assessing authority went wrong in resorting to best judgment assessment which is carried out ex parte, in a highly arbitrary manner and without considering the request for a short adjournment to file reply to the pre-assessment notice as per e mail dated 15.05.2019.

3. The assessing authority wet wrong in his finding of suppression in local purchase amounting to Rs. 1,47,421.85. She ought to have found that the purchase from JSW Cement Ltd., as per invoice No. 3748024713 dated 07.01.2017 for Rs. 63,423.53 was accounted and uploaded in the return for the month of January, 2017. The other 2 purchases for Rs. 83,998.27 were also made by the appellant though they were omitted to be uploaded in the purchase statements.

4. The assessing authority seriously erred in not giving IPT credit on the alleged unaccounted purchases amounting to Rs. 83,998.27. As per clause (a) of sub section (2) of section 25AA of the Act, with respect to unaccounted purchases from registered dealers within the State by dealers, input tax credit shall be granted on such purchases, provided the dealers admit such purchases. In such cases, assessment shall be completed by adding 20 per cent gross profit on the purchase value. The alleged suppression in purchases as per the assessment order is as a result of scrutiny of returns. As such, as per clause (a) of section 25AA (2) of the Act, the appellant was eligible for IPT credit on the local purchase.

5. The assessing authority went wrong in disallowing the IPT credit of Rs. 2,299/- on the local purchase for Rs. 15,855.90 from JSW Cement Limited as per invoice No. 3748023723 dated 23.11.2016. She ought to have noted that the purchases was supported by tax invoice in Form No.8. As such, the appellant was eligible for IPT credit as per the decisions in *ABL Traders Vs Commercial Tax Officer (2016) 24 KTR 481* and in *Altaf Shoes Pvt Ltd., Vs Asst.Commissioner (CT), Valluvarkottam (22 KTR 520)*.

Sri VR Padmanabhan appeared and was heard he contended that the purchase from JSW Cement Ltd., as per invoice No. 3748024713 dated 07.01.2017 for Rs. 63,423.53 was accounted and uploaded in the return for the month of January, 2017. he produced the uploaded list to verify this and this is found correct. The other 2 purchases for Rs. 83,998.27 were also made by the appellant though they were omitted to be uploaded in the purchase statements. Hence the same may be assessed.

Hence it is directed to delete the accounted turnover from the assessment and modify orders accordingly.

Result: MODIFIED

ASSISTANT COMMISSIONER (APPEALS)

THRISSUR

To

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

Copy forwarded to

- 1. State Tax Officer,Wadakkanchery.*
- 2. Asst Commissioner, ,SGST Dept,Thrissur.*

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