

**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 300 A /19
- 2.Order Date : 04.02.2020
3. Instituted on : 19.07.2019
4. From the order of the : No. 32080586499/2013-14 dtd 22.11.2018 of State  
Tax officer, First Circle, Thrissur.
5. Year of assessment : 2013-14
6. Name of Appellant : M/s. New Bharath Aluminium .
7. Turnover Assessed : 22,31,920.00
8. Section/Rule under which  
assessment made : U/s.25(1) of KVAT Act 2003.
9. Date of hearing : 22.01.2020
10. Authorized Representative : Adv. V.R Padmanabhan.

**APPELLATE ORDER AND THE GROUNDS OF DECISION**

M/s. New Bharath Aluminium, TIN 32080586499 filed this appeal against the assessment Order No. 32080586499 /2013-14 dtd 22.11.2018 of State Tax officer, First Circle, Thrissur which was finalized U/s. 25(1) of KVAT Act 2003.

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

1. *The impugned order of the State Tax Officer, First Circle, Thrissur for the year 2013-14 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 in a highly arbitrary manner and without appreciating the facts in issue and the specific pleadings raised by the appellant in reply to the pre-assessment notice at the time of hearing on 12.11.2018.*
3. *The best judgment assessment for the year 2013-14 is based on the compounding proceedings of the Intelligence Officer (IB), Thrissur u/s 74 of the Act. The Intelligence Officer, on scrutiny of data in KVATIS, had found that the appellant had not accounted local purchase of Rs.9,70,39/- covered by 89 bills having a tax effect of Rs.66,548/-. The appellant had admitted the offence and got the same compounded u/s 74 of the Act on payment of compounding fee of Rs.66,600/- vide order dated 03.11.2017.*

4. *The assessing authority had subsequently conducted scrutiny of returns for the year 2013-14 and found that there is variation in the purchase turnover as per annual return filed and as per the purchase details built from other dealers amounting to Rs.8,70,339/-. The purchase turnover conceded by the appellant as per annual return was Rs.1,29,05,854/- only whereas as per the purchase details built from other dealers covered by 678 purchase bills, the total purchase was Rs.1,37,76,193/-.The difference in purchase turnover amounting to Rs.8,70,339/-was treated as suppression in purchase and added back to the conceded turnover adding gross profit at 12.68% together with a further addition of 50% for probable omission and suppression vide order dated 23.08.2018.*
5. *The assessing authority, based on the compounding proceedings of the Intelligence Officer, has again completed best judgment assessment making addition to the turnover as per the impugned order dated 22.11.2018. She seriously erred in not considering the fact that the unaccounted purchases as per compounding order has already been subjected to assessment by her order dated 23.08.2018. The very same purchases which were found to be unaccounted by the Intelligence Officer for which compounding fee was collected from the appellant are included in the list of unaccounted purchases detected in her scrutiny of returns and in the assessment order dated 23.08.2018. Thus the very same unaccounted purchases are subject to assessment twice by the assessing authority, in the order dated 23.8.2018 and 22.11.2018 which amounts to double jeopardy.*
6. When the appeal was posted for hearing Adv. V.R Padmanabhan appeared and heard.

His contention is that the assessing authority has conducted the assessment on same issue twice one on order dt 23.8.2018 and other on order dt 22.11.2018 She seriously erred in not considering the fact that the unaccounted purchases as per compounding order has already been subjected to assessment by her order dated 23.08.2018. he also added that the very same purchases which were found to be unaccounted by the Intelligence Officer for which compounding fee was collected from the appellant are included in the list of unaccounted purchases detected in her scrutiny of returns and in the assessment order dated 23.08.2018.

This matter needs a detailed verification by the assessing authority , of the invoices that are assessed on by the Intelligence(IB wing) then on the first assessment order, if any of the invoices that are already covered in assessment dt 23.08.2018 is identified to be assessed again in assessment dt 22.11.2018, the same is directed to be deleted from the assessment of 22.11.2018 , as a turnover once assessed cannot be assessed repetedly, as it amounts to

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double jeopardy. It is also directed that the Assessing authority shall apply due diligence in scrutiny and assessment rather than complicating with multiple assessments.

Modify and issue orders accordingly.

**Result: Modified.**

**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, First Circle, Thrissur*

*2. Asst Commissioner, ,SGST Dept, IThrissur*

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