

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 34/19 |
| 2.Order Date | : 21.01.2020 |
| 3. Instituted on | : 31.01.2019. |
| 4. From the order of the | : No. 32080509764/12-13 dated 03.01.2019 of State
Tax Officer, 1st Circle, Thrissur. |
| 5. Year of assessment | : 2012-13 |
| 6. Name of Appellant | : M/s. Hisol |
| 7. Turnover Assessed | : Rs 11,40,410/- |
| 8. Section/Rule under which
assessment made | : U/s. 25(1) of KVAT Act. |
| 9. Date of hearing | : 20.01.2020 |
| 10. Authorized Representative | : C. Krishnakumar. |

APPELLATE ORDER AND THE GROUNDS OF DECISION

M/s. Hisol, TIN 32080509764 filed this appeal against the assessment Order No. 32080509764/12-13 dated 03.01.2019 of State Tax Officer, 1st Circle, Thrissur which was finalized U/s. 25(1) of KVAT Act 2003.

The main grounds of appeal submitted are:-

- 1. The order of the assessing authority is against law and facts of the case.*
- 2. The assessing authority had not considered the reply filed by the appellant firm, with reference to the assessing authority's pre-assessment notice, with an open mind.*
- 3. The appellant firm had proved with evidence that the alleged transfer of certain goods imported from outside India. All the documents in connection with import was accompanying the consignment and the only defect is regarding the value mentioned in the delivery note . Having verified the details and convinced that the appellant firm's statement is correct, the assessing authority went wrong in treating the same as unaccounted imports.*
- 4. The appellant had given the details of import purchase in the return filed and also disclosed the amount properly in the books of accounts. The transportation cost and other expenses had been included only for the purpose of customs duty and the value as per bill of entry was disclosed in the 8FA declaration. Having verified the records and convinced that there is no un accounting of any import purchase in the regular books of accounts, the assessing authority went wrong in drawing an adverse inference on the appellant and estimating the unaccounted purchases and the resultant sales.*
- 5. Having verified the records and the fact that the penalty was levied only for certain technical defects and there is no case to suspect any evasion of tax in the alleged*

case, the assessing authority went wrong in estimating the alleged import purchases as in the manner done by him.

6. *The appellant had produced the evidences in support of the alleged unaccounted purchases and alleged suppression in sales. Having verified the records and convinced that the claim is correct, the assessing authority went wrong in making huge additions on this count.*
7. *The assessing authority had not detected any other omission or suppression in purchases or sales,*
the further additions made by the assessing authority for omissions and suppressions are illegal and unsustainable.
8. *In any case, the additions made by the assessing authority are highly arbitrary, excessive and have no nexus to the facts and circumstances of the case and therefore unsustainable.*
9. *The interest levied by the assessing authority is unsustainable.*
10. *Any other ground that may be raised at the time of hearing.*

When the appeal was posted for hearing Sri. Krishnakumar appeared and heard.

The Penalty, that was imposed on vehicle checking that is adopted on, one part of the assessment, was already challenged here, in appeal KVATA 446/17 and the same was Dismissed. Hence the assessment against this is not interfered with, but as against the addition of equal times is found to be quite excessive because section 25AA prescribes an addition of 50% only, if a pattern of suppression is proved, hence the same is reduced and it is directed to modify the said assessment in accordance with section 25AA and issue modified order .

Result: Reduced

**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, 1st Circle, Thrissur.
2. Asst Commissioner ,SGST Dept, Thrissur.

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