

**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 360/19
2.Order Date	: 13.01.2020
3. Instituted on	: 26.10.2019.
4. From the order of the	: No. 3208133954/2015-16 dated 26.11.2018 of State Tax Officer, Wadakkanchery.
5. Year of assessment	: 2015-16
6. Name of Appellant	: M/s. Fird house International Trading.
7. Turnover Assessed	: Rs 1,13,55,295/-
8. Section/Rule under which assessment made	: U/s 25(1) of KVAT Act 2003
9. Date of hearing	: 10.01.2020
10. Authorized Representative	: K.K Francis.

APPELLATE ORDER AND THE GROUNDS OF DECISION

M/s. Fird house International Trading, TIN 3208133954 filed this appeal against the assessment Order No. 33208133954 / 2015-16 dated 26.11.2018 of State Tax Officer, Wadakkanchery which was finalized U/s 25(1) of KVAT Act 2003

The main grounds of appeal submitted are:-

1.The order of the State Goods and Service Tax Officer - I, Wadakkanchery **dated 26.11.2018** determining the VAT payable for the year 2015.16 at Rs.5,67,765/- is arbitrary, illegal and against facts and circumstances.

2.During the year the appellant had effected stock transfer of arecanut to outside the State for Rs.8,94,58,200/-. Against this stock transfer, the appellant filed ' F ' form as detailed below:

F form No:	Bill No:	Date	Value	Name of Agent
MH06/1255487	1	01.04.2015	2720000	Ali Supari Traders Nagpur
MH06/1255487	2	01.04.2015	3400000	Ali Supari Traders Nagpur
MH06/1255487	3	22.04.2015	2720000	Ali Supari Traders Nagpur
MH06/1255487	4	24.04.2015	3476500	Ali Supari Traders Nagpur
MH06/2321657	5	04.07.2015	2720000	Ali Supari Traders Nagpur
MH06/2321657	6	14.07.2015	3400000	Ali Supari Traders Nagpur
MH06/3021547	7	08.08.2015	2720000	Ali Supari Traders Nagpur

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MH06/3021547	8	08.08.2015	2720000	Ali Supari Traders Nagpur
MH06/3665987	9	09.10.2015	255000	Ali Supari Traders Nagpur
MH06/4700250	10	09.10.2015	2880000	Ali Supari Traders Nagpur
MH06/4700250	11	09.10.2015	2880000	Ali Supari Traders Nagpur
MH06/4700250	12	09.10.2015	2880000	Ali Supari Traders Nagpur
MH06/4700250	13	09.10.2015	3780000	Ali Supari Traders Nagpur
MH06/4700250	14	09.10.2015	3292200	Ali Supari Traders Nagpur
MH06/4700250	15	20.10.2015	2880000	Ali Supari Traders Nagpur
MH06/4700250	16	20.10.2015	2880000	Ali Supari Traders Nagpur
MH06/4700250	17	20.10.2015	2758500	Ali Supari Traders Nagpur
MH06/4700250	18	20.10.2015	2880000	Ali Supari Traders Nagpur
MH06/4700250	19	20.10.2015	2880000	Ali Supari Traders Nagpur
MH06/4700250	20	20.10.2015	2880000	Ali Supari Traders Nagpur
MH06/4700250	21	22.10.2015	3780000	Ali Supari Traders Nagpur
MH06/4700250	22	22.10.2015	3780000	Ali Supari Traders Nagpur
MH06/4723687	23	01.12.2015	2970000	Ali Supari Traders Nagpur
MH06/4723687	25	10.03.2016	950000	Ali Supari Traders Nagpur
MH06/4723687	26	10.03.2016	3040000	Ali Supari Traders Nagpur
MH06/4723687	27	10.03.2016	3040000	Ali Supari Traders Nagpur
MH06/4723687	28	10.03.2016	3040000	Ali Supari Traders Nagpur
MH06/4723687	29	10.03.2016	3040000	Ali Supari Traders Nagpur
MH06/4723687	30	10.03.2016	3040000	Ali Supari Traders Nagpur
MH06/4723687	31	10.03.2016	1900000	Ali Supari Traders Nagpur
MH06/4723687	32	10.03.2016	2850000	Ali Supari Traders Nagpur
Total			88432200	

Still the assessing authority disallowed the entire claim for stock transfer amounting to Rs.8,94,58,200/- on the plea that no `F` forms filed in support of the stock transfer. **It may kindly be noted that the `F` form in support of the stock transfer for Rs.8,84,32,200/- was submitted to the assessing authority on 23.10.2018, ie prior to the date of passing the order on 26.11.2018 . This `F` form was duly acknowledged by the assessing authority on 23.10.2018 itself .** Copy of the acknowledgment duly accepting the `F` forms on 23.10.2018 is attached herewith for kind perusal. Still the assessing authority taxed the entire turnover as if no `F, form were not filed .This is nothing but arbitrary, illegal and against the principles of NATURAL JUSTICE. If the `F` form for Rs.8,84,32,200/- is not acceptable, the assessing authority should have informed the same to the appellant through a valid notice. Hence the learned appellate authority may be pleased to order for the acceptance of the `F` forms for Rs.8,84,32,200/- .

3. It is further submitted that the assessing authority has reckoned the interstate stock transfer at Rs.9,97,81,196/-- on the plea that the appellant conceded the interstate stock transfer at Rs.9,97,81,196/- in Form No: 13 and 13A. In fact ,the sum of Rs.9,97,81,196/- declared in Form No: 13 and 13A is the sales turnover of the consignment Agent at outside the State of the goods transferred amounting to Rs.8,94,58,200/- by the appellant to the Agent for consignment sale. Sale pattial and other supporting evidences received in this regard from the consignment Agent will be submitted at the time of hearing of the appeal filed. Hence the learned appellate authority may be pleased to set aside the additional turnover determined amounting to Rs.1,13,55,295/- .(Rs.1,03,22,996.00 +Rs.10,32,299.00 = Rs.1,13,55,295.00)

4. Such other grounds that may be raised at the time of hearing

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

He contended that the Interstate stock transfer out of of Rs 9,97,81,196/- declared in Form No: 13 and 13A is the sales turnover of the consignment Agent (outside the State). The stock difference of Rs 1,03,22,996/- is consignment incentive/ commission. He produced the copies of F form on which the turnover covered is for Rs 8,84,32,200/- . and the same turnover reported on return is of Rs 8,94,58,200/- that is reported on the Annual Return.

But against this contention of Balance turnover of Rs 1,03,22,996/- the appellant did not submit any acceptable Sale Partial or Commission-received details or other supporting evidences regarding this , hence I do not find any merit on this contention,hence the same is disallowed, but from the assessment and the Form F that was produced the appellant claims a stock transfer of Rs 89458200/- on his Annual return,but on his Audit report it is a claim of turnover of Rs 9,97,81,196/- but on my verification on the KVATIS the stock transfer transactions declared and passed through Checkpost is only for Rs 229.59 lac and there is no entry of the remaining turnover of Stock transfer on the KVATIS for the year 2015-16 ,escapement of turnover in assessment is evident here. Hence eventhough the appellants contentions are herewith disallowed as the assessment has gone wrong in this matter , I hereby remand the case back to the assessing authority to verify this aspect and issue fresh orders as per law.

Result: Remanded

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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