

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 361/19
2.Order Date : 13.01.2020
3. Instituted on : 26.10.2019.
4. From the order of the : No. 3208133954/2016-17 dated 26.11.2018 of State
Tax Officer, Wadakkanchery.
5. Year of assessment : 2016-17
6. Name of Appellant : M/s. Firdhouse International Trading
7. Turnover Assessed : RS 9,35,000/-
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. 33208133954/2016-17 dated 26.11.2019 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 14.01.2019 determining the VAT payable for the year 2016.17 at Rs.46,750/- 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.39,90,000/-. Against this stock transfer, the appellant filed ' F ' form as detailed below:*

<i>F form No:</i>	<i>Bill No:</i>	<i>Date</i>	<i>Value</i>	<i>Name of Agent</i>
<i>0910185800052 9</i>	<i>001</i>	<i>21.11.2016</i>	<i>39,90,000.00</i>	<i>Albatross Sales Corporation</i>

Total			39,90,000.00	
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3. Still the assessing authority disallowed the entire claim for Rs.39,90,000/- on the plea that no 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.39,90,000.00 was submitted to the assessing authority on 07.01.2019, ie prior to the date of passing the order on 14.01.2019. This 'F' form was duly acknowledged by the assessing authority on 14.01.2019 itself.** Copy of the acknowledgment duly accepting the ' F ' form on 14.01.2019 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.39,90,000/- 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.39,90,000/- and grant exemption from turnover .
4. It is further submitted that the assessing authority has reckoned the interstate stock transfer at Rs.49,25,000/- on the plea that the appellant conceded the interstate stock transfer at Rs.48,40,000/- in Form No: 13 and 13A. In fact ,the sum of Rs.48,40,000/- 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.39,90,000/- 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 9,35,000/- (Rs.8,50,000.00 +Rs.85,000.00 = Rs.9,35,000.00)
5. 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 was heard. He contended that the Interstate stock transfer out of of Rs.48,40,000/- declared in Form No: 13 and 13A is the sales turnover of the consignment Agent (outside the State). The stock difference of Rs 8,50,000/- is consignment incentive/ commission. He produced the F form on which the turnover covered is for Rs 39,90,000/- . and it is the same turnover of Rs 39,90,000/- that is reported on the Annual Return.

But against this contention of Balance turnover of Rs 8,50,000/- the appellant did not submit any acceptable Sale Pattial 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 39.90 lac, but on my verification on the KVATIS the said stock transfer transactions is not declared on Checkpost and there is no such entry of Stock transfer on the KVATIS for the year 2016-17 , hence I find that the assessment has gone wrong in this matter . Hence I 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,

Copysubmitted1.Joint Commissioner(Law),SGSTDept,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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