

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 371/19 |
| 2.Order Date | : 04.02.2020 |
| 3. Instituted on | : 14.11.2019 |
| 4. From the order of the | : No. 32081303024/15-16 dtd 23.09.2019 of State Tax Officer , Wadakkanchery. |
| 5. Year of assessment | : 2015-16 |
| 6. Name of Appellant | : M/s. Ushus Steel and Metals. |
| 7. Turnover Assessed | : 1,96,83,176.00 |
| 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. Ushus Steel and Metals , TIN 32081303024 filed this appeal against the assessment Order No. 32081303024/15-16 dtd 23.09.2019 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 impugned order of the State Tax Officer, Wadakkanchery u/s 25 (1) of the Act for the year 2015-16 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 completing the remanded assessment for the year 2015-16 in a highly arbitrary manner and without appreciating the facts in issue and the specific averments in the reply filed. The cogent explanations furnished in reply to the pre-assessment notice were rejected on untenable grounds.
3. The assessing authority went wrong in his finding of suppression in purchase for Rs. 6,14,616/- based on the difference of purchase turnover as per annual return and audit report in Form 13A. The assessing authority failed to consider the request of the appellant by e mail dated 20.7.2016 for revision of return for the month of March, 2016. The appellant had detected omission in uploading 2 purchase bills from M/s. Prince TMT Steels for an amount Rs. 4,55,408/- during the time of statutory audit and had requested permission of the assessing authority for revision of the return for March, 2016. The above fact was admitted by the assessing authority in the pre-assessment notice. But he has rejected the application stating that the request was sent by e mail of the Auditor and was not authenticated. The above finding of the assessing authority is illegal and unsustainable. The finding of the assessing authority that the e mail request was not authenticated was palpably absurd.
4. Without prejudice to the above, it is submitted that the assessing authority ought to have allowed input tax credit on the purchase turnover omitted to be uploaded as provided u/s 25AA. The appellant had intimated and admitted that the purchases were effected by the appellant, but omitted to upload in the returns filed.

5. The assessing authority went wrong in disallowing the claim of IPT amounting to Rs.5,476/- on the purchase amounting to Rs.39,628/- without assigning any reasons. He ought to have noted that the purchase was effected from a local registered dealer and supported by a tax invoice and as such the appellant was eligible for IPT credit as provided under section 11 (1) of the Act.

When the appeal was posted for hearing Adv. V.R Padmanabhan appeared and heard. His contention is that the appellant is admitting the differences on the purchases accounted on Annual return with that on Audit report and that he maybe given the eligible sanction of assessment as is prescribed in Section 25AA .And as I do not find anything of which this has to be declined, the same is allowed.

The Assessing Authority is directed to modify the assessment based on the disciplines discussed in Section 25AA of KVAT Act 2003 and issue orders.

Result: Modified.

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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