PROCEEDINGS OF THE APPELLATE DEPUTY COMMISSIONER(CT), PUNJAGUTTA DIVISION, HYDERABAD

PRESENT: SMT. M. SUNITHA,

ADC Order No.2424
Appeal No.BV/69/2019-20

Date of hearing:26-11-2019
Date of order :28-12-2020

1. Name and address of the Appellant.	:	M/s Summit Builders, Hyderabad.
2. Name & designation of the Assessing Authority.	:	Commercial Tax Officer, M.G.Road-S.D.Road Circle, Hyd.
3. No.,Year & Date of order	:	TIN No.36790571789,dt.17-12-2018, (2013-18 / Tax)
4. Date of service of order	:	20-12-2018
5. Date of filing of appeal	:	16-01-2019
6. Turnover determined by The Assessing Authority	:	-
7. If turnover is disputed:		
(a) Disputed turnover	:	-
(b) Tax on disputed turnover	:	-
8. If rate of tax disputed:		
(a) Turnover involved	:	-
(b) Amount of tax disputed	:	-
9. Amount of relief claimed	:	₹6,81,171/-
10. Amount of relief granted	:	REMANDED
11. Represented by	:	Sri M. Ramachandra Murthy, Chartered Accountant

NOTE: An appeal against this order lies before the Telangana VAT Appellate Tribunal, Hyderabad within (60) days from the date of receipt of this order:

ORDER

M/s Summit Builders, Hyderabad, the appellant herein, is a registered dealer under the TVAT Act bearing TIN 36790571789 and an

Grounds of appeal:

The impugned assessment order is highly illegal, arbitrary, unjustifiable and contrary to facts and law.

Appellant submits that it is engaged in the business of constructing and selling independent houses, apartments etc., paying tax under Section 4 (7) (a) of the APVAT Act, 2005.

Claiming authorization from the DC (CT), Begumpet division the CTO verified the books of accounts produced by the appellant for the years 2013-14, 2014-15, 2015-16, 2016-17 and 2017-18 (upto June, 2017) and recorded the yearwise exempt purchases, 1% purchases, 5% and 14.5% purchases for each year separately as construction expenses as per the returns and as per books of accounts. The CTO has also recorded the contractual receipts as per the returns and as per books of accounts for each separately.

The CTO has also stated that the appellant is paying taxes @14.5% on the total receipts after deducting the standard deductions @30%. The CTO has thus levied a tax of Rs. 11,32,994/-, 6,63,742/- and Rs. 59,173/- for the years 2013-14, 2014-15 and 2015-16 respectively. After deducting the tax payments made in these years by the appellant the learned CTO has arrived at VAT payable of Rs. 3,22,034/-, 2,99,964/- and Rs. 59,173/- totaling to Rs. 6,81,171/-. There are no purchases or sales during the years 2016-17 and 2017-18 (upto June, 2017).

Appellant submits that when the learned CTO has recorded in the notice that he has verified the books of accounts and when the purchases are also mentioned in the notice the CTO ought not have proposed to levy tax under Rule 17 (1) (g) under standard deduction method. When the appellant has maintained all books and produced the same to the CTO ought to have levied tax on the value of goods at the time the goods are incorporated in the work at the rates applicable to the goods as per Rule 17 (1) (a) and ought to have allowed input tax credit on 75% of the tax paid on the goods purchased other than those specified in Sub-Rule (2) of Rule 20. The learned CTO passed the order in haste without obtaining the purchase details from the appellant and without allowing the input tax credit. The order passed by the learned CTO is illegal and is not according to the provisions of the Act and Rules and is therefore liable to be set aside.

For these grounds and the other grounds that may be urged at the time of hearing, appellant prays to set aside the impugned order as illegal and to allow the appeal."

"(a) Every dealer executing works contract shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under the Act.

Provided that where accounts are not maintained to determine the correct value of goods at the time of incorporation, such dealer shall pay tax at the rate of 14.5% on the total consideration received or receivable subject to such deductions as may be prescribed."

As per the above provisions, clause (a) of Section 4(7) prescribes that a dealer executing works contract has to pay tax on the value of goods at the time of incorporation into the works at the rates applicable to such goods under the Act and in such case the said dealer is eligible for deductions as prescribed under the relevant Rules, besides eligible for input tax credit at / 75%. However, the proviso appended to the above clause prescribes that where a dealer did not maintain the accounts so as to ascertain the value of goods at the time of incorporation into the works, such dealer has to pay tax at the rate of 14.5% on the total consideration received or receivable subject to such deductions as may be prescribed. Such prescription is made under Rule 17(1)(g) of the TVAT Rules which provides for deduction at different percentages relatable to the nature of contracts executed.

In the case on hand, the claim of the appellant is that since they are maintaining the accounts wherefrom the value of goods at the time of incorporation into the works and the labour & services are very much ascertainable, they are eligible to pay tax as per Rule 17(1)(e) of the TVAT Rules. The appellant also furnished certain documentary evidence like copies of monthly returns filed, copy of summary of VAT calculation for the disputed tax periods and appellant also expressed their readiness to produce the books of account along with other relevant documentary evidence as and when called for and pleaded for an opportunity to do so.