

## CHAPTER - V

### SUBMISSION OF RETURNS, ASSESSMENT AND COLLECTION OF TAX AND PENALTY

**22. Submission of Monthly and Annual returns.**- (1) Every dealer registered under the Act and every dealer liable to get registered under the Act other than a dealer to whom rule 24 applies or a dealer who deals exclusively in goods included in the first schedule to the Act, and every dealer who is required to do so by the assessing authority shall, for every return period, submit to the concerned assessing authority, a return in Form No. 10, showing the details of total turnover, turnover on which exemption is claimed, taxable turnover, output tax due, tax collected, input tax credit availed of, tax due including reverse tax, if any, and the tax paid separately for that return period on the following dates:

(a) Every dealer whose annual net tax payable for the preceding year was Rupees ten lakhs and above	On or before the fifteenth day of the month following the return period
(b) Every dealer whose annual net tax payable for the preceding year was above Rupees two lakhs but below Rupees ten Lakhs.	On or before the twentieth day of the month following the return period.
(c) Others	On or before the twenty-fifth day of the month following the return period.

Provided that the dealers paying tax under sub-clause (ii) of clause (c) and clause (f) of section 8 shall file their returns monthly in Form No. 10 DA.

Provided further that the date for filing return under the Act for oil companies, who are also liable to file returns under the Kerala General Sales Tax Act, 1963, shall be on or before the 10<sup>th</sup> day of every month.

(2) Every dealer registered under the Act and every

dealer liable to get registered under the Act and every dealer who is required to do so by the assessing authority, irrespective of the quantum of his total turnover, shall, on or before the 30<sup>th</sup> day of April every year, submit to the assessing authority of the area in which his principal place of business is situated, a return in Form No.10 showing the details of total turnover, turnover on which exemption is claimed and taxable turnover, input tax credit availed of, output tax, tax due, including reverse tax, if any, and the tax paid separately for the preceding year. Where the details furnished in the annual return vary from those furnished in the monthly returns, the dealer shall, along with the return, file a reconciliation statement.

Provided that the date of filing of annual return for the year 2005-06 will be 10<sup>th</sup> May, 2006.

Provided also that the last date for filing annual return for the year 2008-09 and 2009-10 shall be the 31<sup>st</sup> day of May, 2009 and the 31<sup>st</sup> day of July 2010, respectively.

(3) Along with the return in Form No. 10 the following records also shall be submitted:

- (i) Statement regarding the purchase invoices/bills and sale invoices/bills in Form No 52.
- (ii) Statement regarding purchase returns and/or sales returns,
- (iii) Statement regarding goods sent on branch transfer,
- (iv) Photocopies of the Delivery Note in Form No. 15 used during the period for which the return relates. Originals of the Delivery Note shall be submitted along with the annual return.
- (v) Copy of the stock inventory as 31<sup>st</sup> March, in Form No 53 in the case of annual return.
- (vi) A statement regarding the declarations in Form No. 41 obtained from any institution referred to in serial No 98 of the third schedule, along with the photocopies of such declaration.
- (vii) A Statement regarding the declarations in Form No. 42 obtained from the persons to whom goods are sold under the proviso to sub-section (1) of section 6,

(viii) A statement regarding the declaration in Form No. 43 obtained from the persons to whom goods are sold under clause (b) of sub-section (7) of section 6, along with the photocopies of such declarations.

(ix) A statement regarding the declaration in Form No. 44 obtained from the persons to whom goods are sold in the course of interstate trade or sent out side the state otherwise than by way of sale in the course of interstate trade

(x) A statement regarding the declarations in Form No. 45 obtained from the persons to whom goods are sold under the fifth proviso to sub-section (1) of section 6.

Provided that statement submitted along with the monthly return need not be submitted again along with the annual return submitted under sub-rule (2).

(xi) Copy of the balance sheet with trading/manufacturing and profit and loss account drawn up for the year where the dealer is not liable to file audit certificate as provided in section 42.

(xii) Statements regarding the details of statutory forms issued during the return period, such as the number and date of issue, to whom issued, turnover involved and commodities covered.

Provided that statements submitted along with monthly return need not be submitted again along with the annual return submitted under sub-rule (2).

Provided that the date of filing the documents as per item (xi) above drawn up for the years 2007-08 and 2008-09 shall be on or before 30th June 2008 and 30th June 2009 respectively.

**Explanation:** For the purpose of this rule and rule 58 “VAT dealer” means a dealer who is liable to pay tax in accordance with sub-section (1) of section 6 on his sales and does not include a dealer paying tax under sub-section (5) of that section or under section 8.

(4) Every dealer who discontinues his business during

the course of a year shall submit to the concerned assessing authority a return for the period up to and inclusive of the date of discontinuance of the business within fifteen days from the date of such discontinuance.

(4A) Where any dealer detects any omission or mistake in the return submitted by him under sub-rule (1), he shall file a revised return rectifying the mistake or omission within two months from the last day of the return period to which the return relates or within one month from the date on which the Kerala Value Added Tax (Amendment) Rules 2005 is notified, whichever is later. Where, as a result of such revised return, the tax payable by the dealer increases, the dealer shall furnish along with such revised return proof of payment of tax, interest due thereon under sub-section (5) of section 31 and penal interest calculated at twice the rate specified under sub-section (5) of section 31, in any of the methods specified in sub-rule (6):

Provided that this sub-rule shall not apply to a dealer against whom any penal action is initiated for the same materials under any of the provisions of the Act.

(5) The notice referred to in sub-section (1) and sub-section (4) of section 22 shall be in Form No. 10G. Any dealer who receives such notice shall, within fifteen days from the date of receipt of such notice file a fresh return rectifying the defects as pointed out by the assessing authority in the notice.

(6) Every dealer liable to submit a return in Form No.10 under sub rules (1) or (4) and any dealer filing a fresh return under sub-rule (5) shall submit along with the return a receipt from a Government Treasury or any designated Bank or self attested copy of the receipt from the government treasury or any designated bank or crossed cheque or crossed demand draft in favour of the assessing authority for the full amount of tax or taxes due for the return period on the basis of the return and, in the case of a fresh return under sub-rule (5), in addition to the tax so payable, the interest payable under sub-section (5) of Section 31, failing which the assessing authority shall serve upon the dealer a demand notice in Form No. 12 and the dealer shall pay the sum demanded within the time and in the manner specified therein.

(7) If the return is submitted without a treasury receipt, crossed cheque or crossed demand draft for the full amount of the tax payable in favour of the assessing authority, the assessing authority shall serve upon the dealer a notice in Form No. 12 and the dealer shall pay the sum demanded along with interest, if any, within the time and in the manner specified therein.

(8) Where on account of any sale return or purchase return made within the time allowed therefore under these rules a revision of the turnover has become necessary, the dealer may file a revised return on or before the tenth day of the month succeeding that in which the sales return or purchase return, as the case may be, is made along with a statement showing the particulars of the sales return or purchase return, as the case may be.

(9) Where any dealer registered under the Kerala General Sales Tax Act 1963, (Act 15 of 1963) had paid any amount towards 90 % of the estimated tax for the month of March 2005 under sub-Rule (7) of Rule 21 of the Kerala General Sales Tax Rules, 1963, which is later found to be in excess of the actual tax payable for the said month based on the monthly return for the said month, the assessing authority shall adjust the amount so paid in excess towards the tax payable by the dealers under sub-rule (6) above for the month of April 2005.

**23. Submission of return by casual traders.** - (1) Every casual trader shall submit to the assessing authority concerned on or before the tenth of every month a return in Form No. 10 E showing total turnover, turnover on which exemption is claimed, taxable turnover, input tax credit availed of, output tax and the tax due including reverse tax and tax paid separately for goods for the preceding month. Along with the return he shall submit a receipt from a Government Treasury or self attested copy of the receipt from the government treasury or crossed demand draft in favour of the assessing authority for the full amount of the tax or taxes payable on the taxable turnover for the month to which the return relates. The casual trader may, if he so desires, pay to the assessing authority in cash the tax due, and obtain a

receipt therefore.

(2) (i) Where a casual trader stops his occasional transactions during the course of a month he shall submit to the assessing authority concerned a return in Form No. 10 E showing the total turnover and taxable turnover up to the stoppage of such transaction within the jurisdiction of the said authority within twenty four hours of the completion of the last transaction. Along with the return he shall produce before the said authority proof of having paid the tax due, in the manner specified in sub-rule (1).

(ii) Where a casual trader conducts occasional transaction or transactions of a business nature in the jurisdiction of an assessing authority and leaves such jurisdiction, he shall, before leaving and immediately following the closure of the said transaction, submit to the assessing authority concerned a return in Form No. 10 E in the manner prescribed in sub-rule (1).

**24. Submission of quarterly returns,-** (1) Every dealer who has opted to pay presumptive tax under sub-section (5) of section 6 or compounded tax under section 8, other than those paying tax under item(ii) of clause (c) or under clause(e) of section 8 or under clause (f) of section 6, every dealer dealing exclusively in goods included in the First Schedule, every Central or State Government or any Union Territory and any Department thereof, Local Authority and any Autonomous Body and every works contractor shall file quarterly returns in Form Nos.10, 10A, 10D or 10F, as the case may be, for the quarter ending the 30<sup>th</sup> June,30<sup>th</sup> September, 31<sup>st</sup> December and 31<sup>st</sup> March to the assessing authority on or before the 25<sup>th</sup> of the month following the respective quarter.

(1A) Where a contractor is having dealings in goods other than works contract involving transfer of goods not in the form of goods but in some other form falling under clause (f) of sub-section (1) of section 6 and is liable to pay tax on such goods under sub-section (1), he shall, notwithstanding anything contained in this rule, file return in form 10B for such goods in accordance with Rule 22 and the turnover in relation to works contract shall be included in such return on a quarterly basis in accordance with this rule.

(2) Where, in the case of a works contractor, the actual turnover for the quarter is not ascertainable, the contractor may file the return showing the estimated turnover and pay tax on the taxable turnover declared, provided that where estimated turnover is reported in the return, the labour charges in respect of which deduction is claimed from the gross receipts shown in the return shall not exceed the maximum percentage given under clause (b) of sub-rule (2) of rule 10 and the dealer shall furnish the particulars of actual turnover in the annual return to be filed for the relevant year under sub-Rule (2) of Rule 22.

(2A) Any works contractor other than a contractor executing Government works, opting to pay tax as per sub-clause (ii) to clause (a) of section 8, shall pay tax at the scheduled rates, on the purchase value of goods excluding freight and gross profit element, consigned into the state on stock transfer or purchased from outside the State, along with the returns due for the quarter in which such purchases or stock transfers were made.

(2B) The quarterly statement prescribed in fifth proviso to sub-section (5) of section shall be in Form No. 10 AA. In case of such dealers paying tax under that proviso, if in any of the quarter during the current financial year, if the total turnover of a dealer reaches Rupees twenty lakhs or above, the dealer shall pay tax as if he is a regular presumptive dealer on such turnover exceeding rupees twenty lakhs or above, The dealer shall file Form No. 10A from the quarter onwards when his total turnover attains rupees twenty lakhs in addition to the lump sum amount due for the quarter. The dealer shall file returns in Form No. 10 A from the quarter onwards when his total turnover exceeds rupees twenty lakhs.

(3) All the provisions of sub-rules (2) to (8) of Rule 22 shall, with necessary changes, apply to a dealer filing such quarterly return.

**24A. Submission of returns by Government Contractors.-**

Contractors who undertake only works awarded by Government and who have opted for compounding under section 8 shall file return on an annual basis for the year ending on 31<sup>st</sup> March, to the assessing authority on or before 15<sup>th</sup> of April.

**24B. Contractors to file Declaration:-** (1) Every contractor or

/ promoter / developer or by whatsoever name called who undertakes construction or development of flats or apartments or villas shall file a declaration in Form No. 49 along with returns containing the details of ongoing projects, transfer of apartments/flats/villas made and the works contract tax paid under the Act etc. in respect of every purchaser/ intending purchaser.

(2) Where such contractors are holding flats or apartments or villas the contract of which was undertaken prior to 1<sup>st</sup> April, 2007 but pending to be transferred as on the 1<sup>st</sup> April, 2007 and a portion of or full tax for its construction under the Act has already been paid by them, such contractors shall have to file the declaration in Form No 49 on an annual basis relating to the years in which such payment of tax have been made.

**24C. Filing of returns by dealers holding registration under Central Sales Tax Act, 1956.** (1). The dealers holding

registration under Central Sales Tax Act, 1956 and who are liable to file returns in accordance with sub rule (1) and (1A) of rule 6 of Central Sales Tax (Kerala) Rules, 1957 shall submit their return in Form No 10 in duplicate superscribing one copy as 'Kerala Value Added Tax Copy' and other as 'Central Sales Tax Act, Copy'.

(2) The return superscribed as 'Central Sales Tax Act, Copy' shall be treated as the return under Central Sales Tax (Kerala) Rules, 1957 and shall contain such enclosures prescribed therein.



**24D. Electronic filing of returns:-** (1) [xxx] [SRO.58/2010].

(2) The dealers liable to file returns as per sub-section (2A) of section 20 shall apply to the concerned Deputy Commissioners and get their password etc. for enabling to enter in the KVATIS for filing such returns.

(3) The dealer may enter the different data in accordance with the instructions available in the KVATIS in this regard. After uploading the data the dealer shall take a printout of the return with enclosures and file the same before the assessing authorities with the instrument for payment of tax.

(4) The assessing authority shall approve the entries made by the dealer after which the return will be registered in KVATIS.

(5) The dealer may if necessary modify the entries before approving the same by the assessing authorities:

[xxx] [SRO.58/2010].

**25. Returns to be submitted by the Head office and Branches:** - (1) in the case of dealers having more than one place of business, all returns prescribed by these rules shall be submitted by the Head Office in the State and shall include the total turnover of all branches of the business in the State.

(2) Each branch shall also submit to the concerned assessing authority of the area in which it is situated a return of the turnover of the branch in the manner provided under sub- rules (1) and (2) of rule 22 and intimate to such authority, the fact that the return of turnover of its business is included in the return submitted by its Head office and specify the name and address of such Head Office.

(3) For the purposes of determining whether a dealer is liable to pay the tax under Section 6, the total turnover of all his places of business in the State shall be taken into consideration.

**26. Authorizing banks for receipt of tax or other amounts:** The Government may, by order, notify any Bank as

responsible for receipt of payment of tax or any other amount due under the Act, subject to such conditions as may be specified in such order.

**27. Procedure where the payment is made by cheque or Demand Draft:** Where payment of any tax or other amount due under the Act is made by means of cheque or Demand Draft, it shall be accompanied by a duly filled up tax **Chelan in quadruplicate** in Form No. 8 G.

**27A. Procedure where the payment is made by electronic means:-** Where payment of any tax or other amount due under the Act is made by electronic means, the payer shall be furnished with an electronic chalan as an electronic record containing the treasury remittance particulars, to be provided through Kerala Value Added tax Information System. The payer shall take a printout of the same for future reference.  
[SR0.701/2009].

**28. Procedure where a cheque is dishonored.** - If a cheque presented by a dealer towards payment of tax or other amount due under the Act is dishonored the assessing authority shall issue a notice to the dealer in Form No. 10 H. On receipt of the notice, the dealer shall make the payment of the amount within the time specified therein, but not later than ten days from the date of receipt of the notice, along with interest under sub-section (5) of section 31. The dealer shall not be permitted to make payment by means of cheque for a period of six months as specified in the notice, which may be extended by the assessing authority, with due notice to the dealer, for good and sufficient reasons to be recorded in writing. However, if the dealer pays the amount covered by the cheque and makes prompt payment of tax or other amount due under the Act for a period of six months, the assessing authority shall restore the facility of payment by means of cheque.

**29. Submission of records by owners of vehicles and vessels etc.-** Owners of vehicles or vessels shall submit to the assessing authority having jurisdiction over the area in which the goods are delivered, copies of bill of sale, invoice, delivery-note, or certificate of ownership as the case may be with a certificate written on the back of such copies of bill of sale,

invoice, delivery note, or certificate of ownership, by the person to whom the goods were delivered, to the effect that the goods as per description given were actually delivered to him and taken delivery of by him and duly signed by the purchaser/consignee or his duly authorized agent as the case may be mentioned in such bill of sale, invoice, delivery note, or certificate of ownership. Such copies of bill of sale, invoice, delivery note, or certificate of ownership along with a return in Form No. 11 shall be submitted so as to reach the assessing authority on or before the 10<sup>th</sup> day of the month following that to which they relate.

**30. Submission of returns by forwarding agency, clearing house, etc.** - The return mentioned in section 52 shall be in Form No. 11 A and shall be submitted every month so as to reach the assessing authority of the area on or before the 10<sup>th</sup> day of the month following that to which it relates.

31. **Banks to submit returns.** - (1) The return mentioned in Section 53 shall be in Form No. 11 B and shall be submitted so as to reach the assessing authority of the area on or before the 10<sup>th</sup> day of the month following the quarter to which it relates. Banks which do not have transactions of the nature mentioned in section 53 during a quarter shall submit nil return for such quarter.

(2) Bills relating to sale of shares and stocks need not be included in the returns.

**32. Awardee to submit return.** - Every awardee, including a Department of the State or Central Government, shall forward a return to the assessing authority showing the details of works contract awarded during every quarter, in Form No. 10 C, so as to reach the assessing authority on or before the 10<sup>th</sup> day following the quarter ending 30<sup>th</sup> June, 30<sup>th</sup> September, 31<sup>st</sup> December and 31<sup>st</sup> March every year.

**33. Signing and verifying of returns:** - All returns prescribed under these rules shall be signed and verified in the manner provided therein, in the case of a business carried on by

(a) an individual, by the proprietor or by a person having due authority to act on behalf of such proprietor;

- (b) a firm, by a partner thereof or by authorised signatory.
- (c) a joint family, by the Kartha or an adult member thereof;
- (d) a company or an association or body of person whether incorporated or not or an artificial juridical person, by a Director, Manager, Secretary or the Principal Officer, thereof; or by a person duly authorised to act on its behalf.

**34. Mode of submission of returns:** - (1) Where any return or statement is required to be filed under these rules, any person filing such return or statement may render or make available the same in the required form which may be written typewritten, printed or in electronic form. Where such return or statement is rendered or made available in an electronic form it shall be accessible so as to be usable for a subsequent reference and shall be authenticated by the secure digital signature of the person signing the return or statement, as the case may be, and the public key is made available to the authority before whom the document is filed. Every dealer, other than a dealer to whom an electronic identity card is issued, who desires to file return through electronic means shall pay an annual fee of two hundred rupees which shall be paid to the assessing authority in the same manner as a registration fee payable under the Act is paid.

(2) Any return under these rules may be submitted either in person, or by registered post with acknowledgement due, or by courier service, or through electronic means.

(3) If the return is submitted in person, the officer receiving the return shall acknowledge the receipt of the same by affixing his dated signature with seal on the duplicate copy of such return. If the return is submitted through electronic means the officer receiving the return shall send an acknowledgement in Form No.10J. If the return is submitted by any other means the acknowledgement shall be in Form No 10 K.

(4) If the return is submitted in electronic form, the officer receiving such return shall not acknowledge the receipt of the same unless he is satisfied that it contains all the required information and the same is not a read only copy and the details contained in it are transferable to another computer and is duly signed by the dealer.

(5) Any acknowledgement under sub-rule (3) or sub-rule (4) in relation to a return period shall be issued not later than the due date for the filing of the return for the subsequent return period:

Provided that the acknowledgement in respect of any return for any period prior to the date on which the Kerala Value Added Tax (Amendment) Rules, 2005 is notified shall be issued within thirty days from the date of such notification.

**35. Recording of reasons for rejection of return:** -(1) If, in any case, a return submitted under the provisions of these rules is rejected by the assessing authority, it shall record the reasons for such rejection in writing and shall furnish to the assessee a copy of such record not later than the due date for the filing of the return for the subsequent return period, and where the return is submitted after the due date for the submission of the return for the subsequently return period within fifteen days from the date of receipt of the return which ever is later.

Provided that any such communication in respect of any return period prior to the date on which the Kerala Value Added Tax (Amendment) Rules, 2005 is notified shall be given within 30 days from the date of such notification.

(2)Where the return is rejected for non-submission of any of the documents specified under sub-rule (3) of rule 22, and the dealer submits such documents within fifteen days from the date of receipt of the notice under sub-rule (1), the return originally submitted shall be accepted and the assessment shall be deemed to have been completed, provided the submission of the documents does not necessitate revision of the return.

(3)Where the reason specified in the notice is not correct and the dealer offers satisfactory explanation within the time specified in sub-rule (2), the dealer shall not be required to furnish any revised return and the return originally submitted shall be accepted and the assessment shall be deemed to have been completed on the date of receipt of such explanation.

**36. Self Assessment:** - Where any return filed by any dealer is in accordance with these rules, and the assessment is deemed to have been completed under section 21 or sub-section (2) or sub-section (5) of section 22, the assessing authority shall not be required to give intimation to the dealer.

**37. Procedure for audit visit:** - (1) The authorization referred to in sub-section (3) of section 23 shall be in Form No.18

(2) The officer authorised under sub-section (3) of section 23 shall issue a notice to the dealer concerned in Form No.18 A. for conducting an audit visit on a date which shall not be within fifteen days from the date of the notice.

(3) On completion of the audit visit the officer mentioned in sub-rule (1) shall issue a certificate of audit in form No.18 B to the dealer.

(4) Any audit visit under section 23 during a period of one year from the date of commencement of the Act shall be done only under the directions of the Commissioner.

(5) Where a particular purchase bill is irrecoverably lost the dealer shall obtain from the seller a duplicate bill showing the particulars included in the original bill, with a certificate of the seller to the effect that the duplicate bill is issued in the context of the loss of the original bill and furnish the same for audit.

**38. Best judgment Assessment.** - (1) Where an assessing authority resorting to best judgment assessment under section 22 or section 23 or section 24 deems it necessary to verify the books of accounts of the assessee, such authority may serve on the dealer a notice in Form No. 17 calling upon him to produce the books of accounts or other records or evidences, if any, to prove his turnover and tax liability, and also the correctness of the stock statement, goods or the turnover reported or the input tax credit or the refund claimed, at a time and place to be specified in the notice and shall scrutinize them, if produced, as specified in the notice.

(2) Where the dealer proves the correctness of the above claims with reference to the records produced, the assessing

authority shall not proceed to complete best judgment assessment.

(3) Where the dealer fails to prove the correctness of the turnover, stock etc as above, the assessing authority shall proceed to make the best judgment assessment. The dealer shall be given a reasonable opportunity of being heard before completing the best judgment assessment.

(4) Where the turnover of a dealer is determined and the tax or taxes payable for any return period is assessed under section 22,23 and 24, a notice in Form No. 12 shall be served upon the dealer and the dealer shall pay the sums demanded within the time and in the manner specified in the notice.

(5) Where the taxable turnover of a dealer is determined resorting to best judgment assessment, proportionate special rebate to the tax liability fixed on the turnover under sub section (2) of section 6 consequent to any addition made in the turnover may be given while fixing the tax liability in respect of such assessment.

**39. Audit assessment.** - (1) Audit officer authorized under sub-section (3) of section 23 shall submit a report to the designated officer on the audit conducted at the business place of the dealer and the designated officer shall take appropriate decision whether to proceed under section 24 or not. The audit officer shall also issue a certificate of audit in Form No. 18 B to the dealer.

(2) Notwithstanding that a certificate has been issued under sub-rule (3), if the designated officer considers that any further information is required, he may direct the dealer to furnish the required information or direct the audit officer(s) to obtain the required information.

(3) Where any dealer is required to submit any of the books of accounts or other records for the purpose of audit assessment under Section 24, the assessing authority shall serve upon the dealer a notice in Form No.18A specifying therein the details of the records to be made available, the date on which and the time at which the dealer has to make available the books of accounts or other records at the

business place at the time of audit.

(4) On receipt of the notice in Form No.18A the dealer or any other person assisting him in carrying on business, shall make available the books of accounts and other records, stock statements and goods at the business place on the date and time specified in the notice.

(5)(i) Where in an audit under section 23, any irregularity as specified under sub-section (1) of section 24 is detected and such irregularity relates to one return period only and does not disclose any pattern of suppression, the best judgement assessment shall be limited to the return period to which the irregularity relates.

(ii) Where the irregularity detected is the failure to prove the claim of input tax credit or refund claimed, the best judgement assessment shall be limited to the disallowance of the claim of input tax credit or refund, as the case may be. Where any such claim of input tax credit or refund is disallowed, in addition to the demand of the input tax credit or refund illegally claimed, interest under section 31 and penalty at the rate specified under sub-section (5) of section 22 shall be demanded or levied.

(iii) Where the irregularity relates to suppression of taxable turnover and a pattern of suppression is clearly made out, the best judgement assessment shall be in respect of all the return periods to which the pattern is applicable.

(iv) Where the best judgement assessment is done after the expiry of the year in which the relevant return periods fall, and the best judgment relates to more than one return period, the assessment shall be made by a single order. However assessment relating to return periods falling under different years shall not be made by a single order.

(v) The assessing authority making the best judgement assessment shall serve on the dealer a notice clearly specifying the irregularities or defects noticed and the manner in which the best judgement assessment is proposed to be completed. Where a pattern of suppression is detected, the pattern and the relation borne by such pattern of suppression to the



estimate proposed shall be clearly made out in the notice.

**40. Assessment of legal representative.**- (1) Where a dealer dies and the business is continued, the person running the business after the death of the dealer or executor or administrator, as the case may be, shall notify the death to the assessing authority within fifteen days of the death and file details of the legal heirs. Thereupon, the assessing authority shall conduct such enquiry as he may deem fit to ascertain the particulars of the legal heirs, executor or administrator, as the case may be.

(2) When a dealer dies without having furnished the return or returns prescribed under the provisions of the Act or the rules or after having furnished the returns, the assessing authority may require the executor, administrator or other legal representative, as the case may be, of the deceased person, to perform all or any of the obligations which he might under the provisions of the Act have required the deceased to perform. The tax or fee or other amount due from the deceased for the period up to the date of death, which had already become due or which may be assessed, shall be payable by the executor, administrator or other legal representative of the deceased to the extent of the assets of the deceased in his hands.

(3) The Assessing Authority, before making an assessment on such executor, administrator or other legal representative, shall give every such executor, administrator or other legal representative, as the case may be, an opportunity of being heard.

**41. Collection and payment of tax.** -(1) Where a registered dealer collects tax under section 30 he shall show it separately in each bill, invoice or cash memorandum, as the case may be and pay it over to Government in the manner specified under sub-rule (6) of Rule 22.

(2) If the assessing authority is satisfied that any amount or amounts collected by the dealer by way of tax or taxes or any other amount due under the Kerala Value Added Tax Act, 2003, have not been paid by him to the Government, it shall issue a notice to the dealer in Form No.12 A specifying therein

the total sum so withheld by the dealer or due from the dealer and the dealer shall pay such sum within the time and in the manner specified in the notice along with the interest as applicable.

**42. Deduction of tax by awarder.** - (1) The declaration specified in sub-section (2) of section 10 shall be in Form No. 20, the quarterly certificate in Form No. 20 A and the liability certificate shall be in Form No. 20 B

(2) Every awarder making deduction from the payments made to a contractor under sub-section (1) of Section 10 shall pay the amount so deducted to the assessing authority, with whom the contractor is registered as a dealer, and if he is not so registered, to the assessing authority having jurisdiction over the area where the works contract is executed, by means of cheque or by a crossed demand draft in favour of the assessing authority or by remitting the amount in the treasury in the name of the contractor and producing the Chelan before such authority, along with a statement in Form No. 20C, within the time limit specified under section 10:

Provided that no amount shall be deducted under sub-section (1) of section 10 if there is no transfer of goods involved in the execution of the works contract or the goods which are transferred in the execution of the works contract are only those falling under the First Schedule or where the payment relates to that portion of a contract which relates to transfer of goods involved in the execution of works contract other than those executed in the state.

(3) Where a contractor has opted for payment of tax at compounded rates in respect of a works contract in accordance with the provisions of section 8, the assessing authority shall specify, in the permission granted in Form No. 4D, the rate of compounded tax to be paid in respect of each contract. No certificate in Form No. 20A or Form No. 20B shall be required in respect of a contract for which the assessing authority has permitted payment of tax under section 8. The tax so recovered shall be remitted to government as provided for under sub-rule (2) above.

(4) Where an awarder deducts tax under sub- rule (2) or

sub-rule (3) from the payment due to any contractor, he shall issue a certificate to such contractor in Form No.20 F and the contractor shall issue a certificate in Form No. 20G to the awarder.

(5) Notwithstanding anything contained in sub-rule (2) or sub-rule (3), any contractor who pays tax regularly in accordance with the rules, on production of a certificate issued to that effect by the assessing authority in Form. No. 20 E, shall be entitled to payment of the contract amount without deduction of sales tax due on the contract for a period of six months, to the extent of the works contract specified in the certificate, provided that final payment shall not be made unless the contractor produces a liability certificate issued by the assessing authority in Form No. 20B.

(5A) Where any contractor, to whom a certificate in Form No. 20 E had been issued, makes default, either in the filing of any return or in the payment of any tax due, the assessing authority shall cancel the certificate, with due notice to the contractor, and direct the awarder to deduct tax payable by the contractor in accordance with the provisions of section 10.

(6) Any contractor may apply to the assessing authority in Form No.20 D for the issue of such certificate. The assessing authority, if it is satisfied that the applicant complies with the requirement of sub-rule (5), may issue a certificate in Form No. 20 E

(7) [Omitted]

(8) The amount deducted by the awarder from the payments due to the contractor and remitted under sub-rule (2) shall be adjusted against the tax or other amount due from the contractor for the return period during which such deduction is made.

(9) Where the awarder supplies any material to the contractor for use in the works contract and the price of the goods is deducted from the payment made to the contractor, the awarder shall furnish the details to the assessing authority along with the return filed under Rule 32.

(10) Notwithstanding anything contained anywhere, contractors who undertake only work awarded by Government and filing returns in accordance with Rule 24A shall not be entitled to payment of contract amount without deduction of the compounded tax due thereon.

**43. Notice for further mode of recovery.** -The notice referred to in sub-section (1) of Section 35 shall be in Form No. 23 B

**44. Calculation of turnover when goods are sold for consideration other than cash.** - (1) Every dealer who buys or sells goods for valuable consideration other than cash shall separately specify in the return of turnover which he is required to submit under these rules, the quantity of goods so bought or sold and the description, in sufficient detail, of the valuable consideration for which the goods were bought or sold.

(2) Every dealer referred to in sub-rule (1) shall, in the sale bill or purchase bill, as the case may be, issued under sub-rule (10) of Rule 58 show the details of valuable consideration received or given for such sale or purchase and its cash equivalent separately.

**45. Declaration in respect of sales deemed to be in the course of export under Section 5(3) of the Central Sales Tax Act, 1956.** - (1) A dealer who purchases goods from another dealer in circumstances in which the sale to him is to be deemed to be in the course of export under sub-section (3) of Section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) shall furnish to the selling dealer the original and duplicate portions of the declaration in form H prescribed under the Central Sales Tax (Registration and turnover) Rules, 1957 duly filled in and signed by him or by any responsible person duly authorized by him in this behalf and shall retain the counterfoil .

(2) A dealer who claims that a sale is to be deemed to be in the course of export under sub-section (3) of section 5 of the Central Sales Tax Act, 1956 (central Act 74 of 1956) shall obtain from the buyer of the declaration specified in sub-rule (1) and produce before the assessing authority in the manner prescribed under Rule 47.

(3) The supply, use, custody, maintenance of account, validity and due date for submission of the declaration in Form H shall be in accordance with the provisions of the Central Sales Tax (Registration and turnover) Rules 1957 and the Central Sales Tax (Kerala) Rules, 1957, as the case may be.

(4) [Omitted]

**46. Refund of input tax in case of sale of goods in the course of interstate trade or commerce or transfer to outside the state otherwise than by way of sale in the course of interstate trade.** - (1) Refund of input tax under section 13 in respect of sale of goods in the course of interstate trade or commerce or transfer to outside the state otherwise than by way of interstate trade shall be made, in the manner and subject to the conditions prescribed in this rule, to the dealer who has made the inter-state sale and has paid tax under the Central Sales tax Act, 1956 (Central Act 74 of 1956) in respect of such sale or has effected such transfer to outside the state, as the case may be.

(2) Every dealer who claims a refund under this rule shall submit an application in Form No. 21B, along with-

(i) a statement of the interstate sale or transfer to outside the state made during the period to which the claim relates, in the following form:

Invoice No & Date or Delivery Note & Date	Value Rs.	Name & Address of Consignee	Check post through which the goods crossed the states border (in the case of transport through Road)	Name of Transporting agency	No & date of LR/RR/Air way bill Etc.
(1)	(2)	(3)	(4)	(5)	(6)

(ii) copies of the transport document (L.R, R.R, air way bill or delivery note as the case may be) , to the assessing authority concerned within thirty days from the end of the month in which the dealer paid the Central Sales tax on the transaction in relation to which he claims refund of the input tax:

Provided that the assessing authority may condone, for

reasons to be recorded in writing, any delay in the filing of the application or other documents aforesaid.

(iii) declaration in form *No 21J* from the dealer who collected the tax in respect of which refund is claimed.

(iv) a declaration in Form No. 44 obtained from the consignee.

Provided that, in cases where the statutory declarations in Form F or Form C, prescribed under the Central sales tax (Registration and Turnover) Rules, 1957 are furnished by the dealer, the declaration in Form No. 44 shall not be insisted.

Provided further that, in case of oil companies, the transporting document mentioned in this sub-rule is not available, for the reason that the goods are consigned through pipelines, a joint inspection report containing the relevant particulars, signed by the authorized representative of the consignor and consignee shall be sufficient.

(3) The burden of proving that a dealer is entitled to the refund under this rule shall be on the dealer who claims the refund.

(4) (i) On receipt of the application in Form No. 21B the assessing authority shall, if it is satisfied after such enquiry as it considers necessary, that input tax credit has not been availed of in respect of such goods and that the claim of refund is otherwise admissible, pass an order refunding the tax within three months from the date on which the dealer submitted all the relevant records rectifying the defects, if any, pointed out.

(ii) Where the dealer claiming refund under sub-rule (2) had claimed input tax credit in respect of any purchase in relation to which refund is claimed, which could not be set off till date, refund shall be allowed under clause (i) and the input tax credit carried over shall be reduced by the amount of refund allowed.

(iii) If the application submitted by the dealer appears to the assessing authority to be incorrect or incomplete or otherwise not in order, it shall, after making such

enquiry as it considers necessary and recording the reasons in writing, pass such orders as it thinks fit. The Assessing Authority shall, before passing any such order, give the dealer an opportunity of being heard.

(5) Notwithstanding anything contained in the foregoing sub-rules, the assessing authority may issue refund of the input tax claimed in Form No. 21B, **without** pre-verification, where the dealer claiming such refund furnishes security in the manner specified in clause (f) of sub-rule (2) of Rule 19 covering the amount for which refund is claimed.

(6) Where a dealer eligible for refund under this rule is liable to pay any tax or other amount under the Act or where he is found to be in arrears of tax or other amount under the KGST Act 1963, Central Sales Tax Act, 1956, or the Kerala tax on Entry of Goods into Local Areas Act, 1994, the assessing authority shall adjust the amount to be refunded towards tax or other amount due from the dealer under any of the said enactments and the balance remaining after making such adjustment shall be refunded to the dealer

**47. Refund of input tax in case of sale or purchase of goods in the course of export.** - (1) Every dealer who claims a refund under section 13 shall submit an application in Form No. 21C to the assessing authority concerned not later than one year from the date on which the goods have been exported. Along with the application the dealer shall also submit the following, -

- (i) a copy of the Exporter's copy or Export Promotion copy of the shipping Bill, Air way Bill or similar document evidencing export of the goods, duly certified by the Customs authorities,
- (ii) a certificate from the Bank to prove receipt of payment from the foreign buyer.
- (iii) Declarations in form No.21 J from the dealer who collected the tax in respect of which refund is claimed except where such refund is in respect of input tax in relation to goods held as opening stock on the date of commencement of the Act and goods purchased from unregistered dealers in the state. A single declaration shall be sufficient for all

purchases made from a dealer during a month.

- (iv) Declarations in Form H prescribed under the Central Sales Tax (Registration and turnover) Rules, 1957 where the sale by the dealer claiming refund falls under sub-section (3) of section 5 of the Central Sales Tax Act, 1956(Central Act 74 of 1956)



Provided that the assessing authority may condone, for reasons to be recorded in writing, any delay in the filing of the statement or other documents aforesaid.

(2) The burden of proving that a dealer is entitled to the refund under this rule shall be on the dealer who claims the refund.

(3) (i) On receipt of the application in Form No. 21C the assessing authority shall, if it is satisfied after such enquiry as it considers necessary, that input tax credit has not been availed of in respect of such goods and that the claim of refund is otherwise admissible, pass an order refunding the tax within three months from the date on which the dealer submitted all the relevant records rectifying the defects, if any, pointed out.

(ii) Where the dealer claiming refund under sub-rule (1) had claimed input tax credit in respect of any purchase in relation to which refund is claimed, which could not be set off till date, refund shall be allowed under clause (i) and the input tax credit carried over shall be reduced by the amount of the refund allowed.

(iii) If the application submitted by the dealer appears to the assessing authority to be incorrect or incomplete or otherwise not in order, it shall, after making such enquiry as it considers necessary and recording the reasons in writing, pass such orders as it thinks fit. The Assessing Authority shall, before passing any such order, give the dealer an opportunity of being heard.

(4) Notwithstanding anything contained in the foregoing sub-rules, the assessing authority may issue refund of the input tax claimed in Form No. 21 C without pre-verification where the dealer claiming such refund furnishes security, in the manner specified in clause (a), (b), (c) or (f) of sub-rule (2) of Rule 19, covering the amount for which refund is claimed.

Provided that where the security is furnished in the form prescribed under clause (b) of sub-rule (2) of rule 19, the dealer claiming refund shall obtain and produce a permission

from the authority concerned to adjust, at any time, the amount which, on subsequent scrutiny, is found to be in admissible for refund.

(5) Where a dealer eligible for refund under this rule is liable to pay any tax or other amount under the Act or where he is found to be in arrears of tax or other amount under the KGST Act 1963, Central Sales Tax Act, 1956, or the Kerala tax on Entry of Goods into Local Areas Act, 1994, the assessing authority shall adjust the amount to be refunded towards tax or other amount due from the dealer under any of the said enactments and the balance remaining after making such adjustment shall be refunded to the dealer.

**Explanation:-** For the removal of doubt it is hereby clarified that input tax which is eligible for refund under this rule or rule 46 shall include input tax paid on the purchase of Duty Entitlement pass book or any other similar document for the import of any goods in relation to which refund of input tax is claimed.

**47A. Refund of input tax remaining unadjusted at the end of the year.-**

(1) Every dealer claiming refund of input tax in accordance with the proviso to sub-section (6) of section 11 shall, within three months after the expiry of the year to which the input tax relates, submit an application in Form No. 21 CC to the assessing authority along with the closing stock inventory in respect of Value Added Tax suffered goods locally purchased during the respective year and held as closing stock as on 31<sup>st</sup> March, in Form No 54.

(2) Sub-rules (2) to (5) of rule 47, except clause (ii) of sub-rule (3) shall, mutatis mutandis, apply to the refund under this rule.

Provided that the date of submission of application under the sub-rule (1) for the year 2005-06, shall be 28<sup>th</sup> February , 2007.

**48. Issue of refund adjustment order.-** Whenever any excess tax refundable to a dealer is adjusted towards any amount due from him under the Act or under any other law referred to in sub-section (3) of section 13, the assessing authority shall

issue a refund adjustment order in Form No. 21 A

**49. Reimbursement of tax to Foreign Diplomatic Missions, United Nations' Agencies.** -(1) Foreign Diplomatic Mission or Consulate in India, Agencies of the United Nations' Organisation, any consular or diplomatic agent of any such mission or agency claiming reimbursement under section 14, shall file an application in Form No. 21 E before the assessing authority having jurisdiction over the area in which the dealer is registered, along with the invoice or sale bill evidencing collection of tax.

(2) On receipt of the documents mentioned in sub-rule (1) the assessing authority shall pass an order refunding the tax within two weeks from the date of receipt of such documents.

**50. Refund payment order.**- Where a refund is made under rules 46, 47 or 47A the assessing authority may issue either a crossed cheque or demand draft for the amount or a refund payment order in Form No. 21K or 21 K A to the assessee to whom the refund is due along with the order refunding the input tax. Where a refund is made under section 89 or where any other amount paid under provision of the Act is refundable or a reimbursement is made under rules 49 or 56, the assessing authority shall issue a refund payment order in Form No.21KA to the person to whom the refund or reimbursement is due. Where a refund payment order is issued in Form No. 21K, the assessing officer shall give due intimation to the treasury officer concerned regarding the issue of refund payment order.

**51. Granting of installments by Assessing Authority.** - (1) Any authority under the Act who issues a notice of demand under these rules for the payment of any tax or other amount may, on request by the dealer in form No. 21 H, allow such amount to be paid in not more than six monthly installments. Interest under sub-section (5) of section 31 shall, however, be payable on the amount remaining unpaid.

(2) The assessing authority shall not decline any such request filed as per sub-rule (1) without giving the applicant an opportunity of being heard.

**52. Mode of payment of Interest.** - (1) The interest payable under sub-section (5) of section 31 shall be paid in the same manner as the tax or other amount due under the Act, in relation to which such interest is charged, is payable.

(2) The assessing authority concerned may calculate the interest payable under sub-section (5) of section 31 from time to time and may issue a notice in Form No. 12 On receipt of the notice the dealer shall pay the interest due in the manner specified in sub-rule (1).

**Explanation:** - The dealer or other person concerned shall be liable to pay the interest under sub-section (5) of Section 31 whether he receives a notice under this sub-rule or not.

**53. Payment of penalty.** - The assessing authority imposing the penalty under sections 67, 68, 69, 70 or 72 of the Act shall serve a notice of demand on the dealer in Form No. 12 On receipt of the notice, the dealer shall pay the penalty due either by remitting it to the Government Treasury or by means of crossed cheque or crossed demand draft in favour of the concerned assessing authority or in cash to the said assessing authority on or before the day specified in the notice of demand.

**54. Mode of recovery of tax and other amounts due:** - (1) Any officer proceeding to recover any amount under clause (a) of sub-section (4) of section 31 may forward a requisition under the provisions of the Kerala Revenue Recovery Rules along with a certificate in form No. 23

(2) On receipt of an application from an assessing authority for realization of tax or other amounts due under clause (b) of sub-section (4) of Section 31, the Magistrate shall

issue a warrant in Form No. 23A to a Police Officer or any Officer subordinate to him, authorizing such officer to recover such tax or other amount referred to in the application, by attachment and sale of any movable property belonging to the defaulter. The application as per clause (b) of sub section (4) of section 31 shall be in Form No 23C.

**55. Payment of amount forfeited.** - (1) Any sum ordered to be forfeited to the Government by an order issued by the assessing authority under sub-section (1) of Section 72 shall be paid either by cash to the assessing authority or by remitting into the Government Treasury or be paid by means of crossed cheque or crossed demand draft in favour of the assessing authority concerned.

(2) The assessing authority ordering forfeiture under sub-section (1) of Section 72 shall serve a notice of demand on the dealer in Form No. 12 On receipt of the notice, the dealer shall pay the amount due in the manner specified in sub-rule (1) on or before the day specified in the notice of demand.

**56. Reimbursement of forfeited amount.** - (1) Any person who claims reimbursement under sub-section (3) of section 72, of any amount forfeited to Government under sub-section (1) of that section shall furnish to the assessing authority which ordered such forfeiture, within a period of one year from the date on which the order of forfeiture was passed under sub-section (1) of section 72, a statement in Form No. 21 D , duly filled up and certified by the dealer who realized the excess or illegal tax, along with the original of the bill or bills evidencing such collection;

(2) If the assessing authority which forfeited the amount is satisfied that the statement submitted is correct and complete, it shall refund the amount within ninety days of receipt of the statement in Form No. 21 D as provided in rule 50.

**57. Refund of interest:** - Where, as a result of any order under sub-section (8) or sub-section (9) of section 31, the interest levied on any dealer or other person is cancelled or is reduced, the excess amount of interest, if any, collected, shall be refunded to the dealer or other person as provided in rule 50, after adjusting towards any arrears of tax or other amount, if any, due under the Act or under the Kerala General Sales Tax Act, 1963(15 of 1963) or the Central Sales Tax Act 1956(Central Act 74 of 1956) or under the Kerala Tax on Entry of Goods into Local Areas Act, 1994(15 of 1994) within three months from the date on which a copy of the order in appeal, revision or rectification is received by the assessing authority or where the order giving rise to refund is an order issued by the authority issuing the refund, within three months of such order.

**57A. Issue of certificate for claiming deduction in stamp duty.- (1)** Where in pursuance to the provisions of the Kerala Stamp Act, 1959 (17 of 1959) for claiming reduction in the duties, with which all instruments of conveyance relating to flats/apartments/villas are chargeable on the value of the consideration for such conveyance to the extent of four rupees for every one hundred rupees or part thereof or the actual amount paid, whichever is less, being Tax under Kerala Value Added Tax Act, 2003 in respect of the works contract entered into between a promoter or developer or by whatsoever name called for construction or development in any manner whatsoever of any immovable property, the assessing authority shall issue a certificate of payment containing the details of tax paid under Kerala Value Added Tax Act, 2003 in respect of the works contract relating to such flats or apartments.

(1) Only those promoters or developers or by whatsoever name called for construction or development of such flats or apartments or villas who are registered under Kerala Value Added Tax Act, 2003 shall be entitled for getting the certificate under sub-rule (1).

- (2) Every application for the certificate as prescribed under sub rule (1) shall be in Form No.50 and shall be filed before the assessing authority by the promoter or developer or by whatsoever name called for construction or development of such flats or apartments.
- (3) Along with the application the applicant shall file the details of tax paid in respect of the flats or apartments/ villas.
- (4) On receipt of an application as per sub rule (3) the assessing authority may, after verifying the genuineness of the details furnished in the application, issue the certificate in Form No 51.