



Office of the Prl Secretary & Commissioner of State Goods and Service Tax
Department
Government of Kerala, Thiruvananthapuram

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Circular No 8 /2018

Sub:- SGST Dept.- Revision of KVAT returns for back years- guidelines issued- reg.

- Ref:- (1) Circular No. 14/2017
(2) Circular No. 6/2018
(3) Kerala Finance Act 2018

Recently several representations and requests have been received from dealers seeking permission for revision of monthly/annual returns and its enclosures. The permission is sought for revision of returns relating to back years. While the head quarter received the request and came to understand that for the period up to 2015-16, a large number of returns were initiated by the Deputy Commissioners concerned, at the request of dealers, even though there are no provisions in the KVAT Act, they failed to submit the revised or fresh returns within a reasonable time. This created a huge back log of returns in "initiated" status in the KVATIS and as a consequence thereof, effective scrutiny of returns became impossible in these cases. As the law does not permit to allow revision of return after allowed time period, the revision of returns for the back period up to 2015-16 was monitored at the head quarter and return revision without any examination at the field level was disabled. Thereupon the dealers approached Hon'ble High Court and obtained decisions directing the authorities to take

necessary steps to permit them to revise their returns, provided there is no change in the turnover or tax already conceded.

Section 21(2), 22(9), 22(10), 42(2) and 79(B) of the KVAT Act deal with the revision of returns pertaining to previous years. The requests are put in either to correct certain technical/clerical errors or to supply the omissions crept in while filing the original return. The law permits revision of returns within 2 months of filing of the original return or along with the filing of Annual Audited Statement. Under no circumstances the law permits the revision of returns beyond this period. However, at the field officer level, the revision of returns was permitted at any point of time and there was no monitoring of these cases. This practice was rampant and was misused widely by certain unscrupulous dealers.

Once the revision of return is allowed, then the original return goes out of the system. If this is not followed up properly, then those returns remain outside the system for years. If five years are elapsed, the cases are barred by limitation. There was no effective system to check what was being revised, whether the revision has caused adverse impact on revenue etc. In the absence of hard copy of the original return, it was not possible to verify what changes / modifications were brought about by way of the revision.

As the revision of return was not done as per the law, some reasonable restrictions were imposed, stipulating certain conditions for permitting such revision for the year upto 2015-16 w.e.f. 01.04.2017. But post GST launch, dealers who have not bothered to examine the returns they filed started applying for revision of the same because the other states started assessments of cases because of missing statutory forms. Many dealers came to revise returns they filed before year. The number of such application has grown to hundreds. The dealers are bound to file proper return and to correct the erroneous return within the period permitted by the statute. If at all the mistakes are clerical, they should have been identified and corrected in time. The Chartered Accountant who certified the audit report could also have pointed out the mistake and got them corrected. But the dealers remained dormant for all these years and now come with application for revision after the lapse more than 5 years which is totally against the law.

As the return revision which was in practice as a routine way without any monitoring was restricted, many of the dealers moved the Hon'ble High Court, praying

for direction to permit revision and in many cases obtained favourable orders. The petitioners in such WP(C)s can be categorized as follows -

- (a) The dealers filed application for revision, but the authorities have not taken any decision. In such cases the Court ordered to examine the case and to take appropriate decision, considering the impact on turnover / tax effect.
- (b) Dealers filed application, the authorities decided to reject the application, but did not issue any orders. Therefore the dealer got aggrieved.
- (c) Dealers applied to the authorities and decisions are awaited.

In some cases the Court issued specific operative orders. Therefore clear instructions were given to the officers regarding how to deal with the return revision cases in which the Hon'ble High Court has issued instructions as per the Circular 14/2017.

The applications are broadly classified into 2 categories- those pending with the assessing authorities and those in which the Hon'ble High Court has issued orders.

Regarding the 1st category, i.e., the applications pending with assessing authorities it was specifically instructed to follow the provisions in the KVAT Act and Rules, process the application and dispose off by issuing detailed speaking orders.

Regarding the 2nd category, i.e. dealers who got orders from the Hon'ble High Court, specific directions were issued as to how to deal with such cases, vide circular cited 1st. The most crucial point was to examine the impact of revision on turnover and tax. If there is an adverse impact, then such revision cannot be considered at this point of time. In such cases also the assessing authorities were instructed to issue speaking orders. As the said circular was especially intended to deal with the cases in which Court directions were issued, a proposal was sent to Government to examine the issue of return revision and introduce amendment in KVAT Act with regard to return revision by introducing eligibility criteria and by following specific processes. Accordingly the Government has amended section 42 of KVAT Act, 2003 as per the Kerala Finance Act, 2018, inserting the following proviso to sub-section (2) to section 42.

“Provided further that those dealers who have filed audited statement of accounts and certificates under sub-section (1) will be allowed to revise the returns for the period up to June, 2017, in respect of defects of a technical or clerical nature, having no effect on the sales turnover already conceded or the tax paid. Such

dealers may apply for revision of their returns before the assessing authority on or before 30th June, 2018:

Provided also that this facility shall not be available to dealers against whom assessment proceedings have already been initiated based on such defects:

Provided also that such revision shall be allowed on the basis of the instructions issued by the Commissioner from time to time.”

Now that the issue is settled through the said amendment, in order to avoid any misgiving or confusion, revised instructions are issued in supersession of those circulars issued in this regard earlier vide ref. Cited 1st and 2nd.

Return is the most crucial aspect of tax administration; therefore the revision of return is to be done very judiciously. The following guidelines are issued to facilitate return revision.

A. Guidelines for the applicant

1. The dealer shall file application for revision of returns for the years upto June, 2017 before the assessing authority on or before 30th June, 2018.
2. Dealer shall specify the grounds for revision and the corrections/modifications intended to be brought about by way of such revision, in detail. Dealer shall specifically mention the mistakes and corrections in the application.
3. Dealer shall file hard copy of the old return submitted previously, which is now intended to do some corrections.
4. After the application is examined and allowed by the authorities, after doing corrections, the Dealer shall submit the hard copy of the corrected Return then and there.

B. Guidelines for the Assessing authority

1. The assessing authority shall examine whether the revision sought for is to rectify / correct the defects which are clerical/technical in nature and see that such revision has no impact on the turnover or tax effect already conceded in the original return.

2. In order to ascertain that no changes other than what was requested is made by way of revision, the assessing authority shall take a print out of the original return and keep in the assessment file.
3. If the application is not found admissible, it may be rejected by issuing a speaking order.
4. If found admissible, a report as to the admissibility of revision shall be sent to the Dy Commissioner concerned with specific reasons for allowing such revision.

C. Guidelines for the Deputy Commissioners

1. The Deputy Commissioner of State Tax shall verify the report furnished by the Assessing authority, evaluate the merit of the reasons mentioned therein and decide whether the revision is admissible or not by verifying impact on turnover and tax.
2. If the revision is found admissible, the Deputy Commissioner shall send a report to the Head Quarter, recommending the revision.

D. Guidelines for the Joint Commissioner (General) / C-section

1. Once the application for revision is received along with the report of the Deputy Commissioner, all these applications shall be managed in C section. Joint Commissioner (General) shall refer them to AC ITMC after verifying the report of Dy Commissioners.
2. If found admissible, the Assistant Commissioner, ITMC shall be duly intimated and directed to initiate revision of the return. If found not eligible at Jt Commissioner level, it shall be intimated to the Assessing authority for completing the formality of rejection by giving detailed notice specifying the reasons thereof.
3. The Dealer may be allowed to select the correction either at the state head quarter or at the district head quarter where he is registered.
4. On receipt of intimation from the ITMC as to the initiation of revision, the assessing authority or the Deputy Commissioner shall make necessary arrangements to facilitate the revision, in the presence of the assessing authority or a responsible officer at the district where the dealer is registered.

- 5.** Revision of return for the eligible cases shall be done on fixed day fixed time basis on all Saturdays. If Saturday is a holiday then on Friday it will be done. ITMC shall indicate time so as to do proper management of return revisions at the district headquarter or at state head quarters.
- 6.** After the revision is done, the assessing authority shall verify the revised return with the print out of the original return in order to ensure that no changes / modifications other than what was requested for have been made by the dealer. The copy of the revised return shall be kept in Assessment file.
- 7.** The assessing authority shall maintain a register for revision of returns in the following format.

Sl. No	Name & TIN of the dealer	Month / Year for which revision is sought	Reason for the revision	Remarks of the DC`	Date on which revision was effected
(1)	(2)	(3)	(4)	(5)	(6)

The Deputy Commissioner shall send a monthly report on revision of returns to the Head Quarter.

E. Guidelines for already submitted requests at the district or at state Head quarters

1. All these requests shall be considered as the applications for revision of returns filed by the respective dealers.
2. The concerned Assessing authorities and Dy Commissioners might have filed the report regarding impact on tax and turn over. All these reports may be verified in C section. Wherever there is no impact of tax and turn over, all such cases shall be processed as per the stipulations mentioned above.
3. Wherever the applications are filed but the Assessing authorities and Dy Commissioners have not yet filed the report, they may furnish the report expeditiously within a week. They may follow a system in the district such that as

and when the applications if filed the examination is completed expeditiously and within 7 days reports are sent to state head quarters.

F. Other general guidelines

1. As this is a onetime activity, all Dy Commissioner may do local campaign to inform the dealers, if they want to revise the already filed returns, they need to apply before 30th June 2018.
2. The Assessing authorities and Dy Commissioner shall ensure proper record keeping of Return Revision cases.


Principal Secretary & Commissioner

