

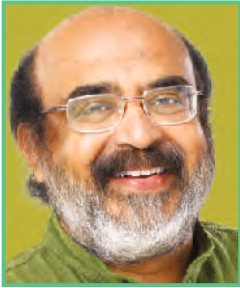
Circulars

2015 and 2016

KERALA TAXES



Government of kerala



Message

I am glad to see that the Commercial Taxes Department has brought out the compilation of all the Circulars issued since 2015 to 2016. During my field visits and district level meetings, I have noticed that there is no uniformity in dealing with similar nature of cases. It is happening because of lack of information or knowledge about the processes and amendments brought in periodically. The Department has started the initiative of doing capacity building of officers. This will be complemented by providing resource documents to them such as Book on Circulars. The Department has taken a very good initiative and completed the task.

This book will be handy to all officers as all the instructions issued in the year are covered. The officers may make use of the information to improve their functioning and equip themselves to generate more additional collectable demand thereby overall revenue.

I also suggest to the department to make the document available on website intranet for the use of officers.

I wish a grand success to the knowledge transfer initiative of the department.

Dr. T M Thomas Isaac
Finance Minister
Government of Kerala



Message

I am glad to see the compendium of Circulars for years 2015 to 2016 have been brought out by the Department. The Commercial Taxes Department is taking various initiatives such as capacity building of officers. Now, in transition period from VAT regime to GST regime, it is very important that all the officers are equipped with knowledge and skills required to deal with the change management as well as tax administration. The one stop shop in the form of information book will complement the efforts of the department.

I appreciate the works done by the team and wish all the success to this initiative of knowledge transfer to the officials.

P Mara Pandiyan IAS
Additional Chief Secretary
Taxes, Excise, Registration & Forest
Government of Kerala

Foreword

The Commercial Taxes Department deals with many intricate processes with respect to the tax administration. In order to ensure standardization, department issues various circulars. Sometimes it is noticed that some of the officers do not get the information about the circulars already issued. That results into getting the cases dealt with differently in various 180 tax circles across the state.

Therefore, it was decided to bring out one booklet on all the circulars issued on various subjects to enable the officials to refer to the instructions with regard to those respective issues.

We do hope the compilation of circulars as one stop shop will be handy to all. The ITMC wing will upload the book in pdf format in the 'knowledge management' section of KVATIS.

We look forward to the suggestions from all the officers to improve some of the redundant processes. The suggestions may be given on the email address itmc.ctd@kerala.gov.in and copy marked to cct.ctd@kerala.gov.in

We appreciate the work done by Shri Justin in compilation of all the circulars.

Commissioner.

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No.C1-40622/14/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Karamana, Thiruvananthapuram
Dtd.06-01-2015

CIRCULAR No.01 / 2015

Sub:- KVAT Act – Section 42 – Extension of time limit for filing audit report for the year 2013-14 – reg.

The time limit for filing certified audited report in Form No.13 and statement of particulars in Form No.13A by dealers other than companies for the assessment year 2013-14 was 31st December, 2014. Taking into account the representation received from various trade bodies, the time limit is extended upto 31st January, 2015. Further extension will not be granted in any case.

All assessing authorities shall take note of the above position.

Sd/-
COMMISSIONER

No.C1-33300/13/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana
Thiruvananthapuram 695002
Dtd.09 / 01 / 2015

CIRCULAR No.02 / 2015

Sub: - Stay on collection of disputed amount – instructions – reg.

Read: - Rule 72A of KVAT Rules, 2005.

Rule 72A of KVAT Rules inserted by S.R.O.No.414/2014 is extracted under:

"72A. Without prejudice to the powers of Appellate or Revisional Authorities, in cases where the appellant or the revision petitioner files an appeal under Section 55 or revision under Section 57, along with the proof of payment of 30% of the disputed amount in such appeal or revision, and furnishes security for the balance amount, stay may be granted on collection of the disputed amount for a period of one year or till the disposal of the appeal, whichever is earlier."

Now, it has come to notice that the Inspecting Asst. Commissioners are treating payment of 30% of the disputed amount as stays and stopping RR action. This is not the correct procedure.

The Appellate Authorities can take decision on the basis of rule 72A and stay on collection of disputed amount shall be granted only on production of stay orders of the appellate authority.

COMMISSIONER

No.C2-40031/14/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killippalam, Karamana
Thiruvananthapuram
Dtd.14 / 01 / 2015

CIRCULAR No.3 / 2015

Sub:- Transport of Goods from outside the State for own use -
streamlining of procedures to prevent misuse - Instructions
issued – reg.

Ref:- Circular Nos.51/2006, 14/2007, 23/2007, 34/2007, & 07/2008.

1. Procedure and documents to be insisted from persons other than registered dealers for transporting goods into the State for own use / consumption in the State were laid down in Circulars referred above.

2. It has been brought to notice that large scale misuse of these type of transports occur whereby the persons bringing such goods effect resale of the same within the State and willfully evade tax. In spite of instructions to verify this aspect, these types of clandestine activities are on the rise, and is affecting the tax revenue of the State. Hence, effective and methodical verification of these transactions is critical in preventing evasatory tendencies. The present manual verification process involving I.B. Wing alone is found to be not sufficient. With the advent of e-Governance, it is now possible to verify and keep track of these activities. Hence, it is decided to overhaul the existing system of Form No.16 consignments and its verification by introducing electronic filing.

3. In the circumstances, in exercise of powers conferred under Clause (c) of sub-section 2 of Sec.3, for proper administration of the Act, the following instructions are issued in modification to circulars read above.

- (a) Henceforth, Form No.16 along with the Form no.8F declarations will have to be e-generated by the person bringing goods from outside the State. To begin with, this facility would be made mandatory only to single consignment the value of which exceeds Rs.20,000/- (rupees twenty thousand only). Manual Form No.16 will continue with respect to consignments of value between Rs.5000/- and Rs.20,000/-and for movements within the State.
- (b) The procedure for filing Form No.16 in KVATIS is detailed in Annexure.
- (c) Since it is observed that major portion of tax evasion occurs in the building material sector it has been decided that a separate procedure involving pre-verification aspect is to be prescribed for the same. The commodities identified for this procedure are
 - (i) marble slabs and tiles
 - (ii) granite slabs and tiles

- (iii) vitrified and ceramic tiles
- (iv) timber
- (v) glass
- (vi) cement

The person intending to bring in such goods shall apply online through KVATIS. The system will forward the application in such cases to the concerned Inspecting Asst. Commissioner of the Taluk where the building materials will be consumed / used. On receipt of the information, the Inspecting Asst. Commissioner shall verify and conduct a preliminary enquiry into the bonafides of the application. Such enquiry shall include:

- (i) the identity of the person seeking to bring goods for own use;
- (ii) the location of the applicant
- (iii) the necessity to bring the goods as evidenced by approved plan, license and building permits;
- (iv) whether the quantity sought to be imported have a bearing to the declared need of the applicant;
- (v) whether the person has brought such goods for own use earlier as verifiable from KVATIS; for the earlier periods the details of goods brought for own use for the specific project / building shall be obtained from the applicant in the form of sworn statement.

The Inspecting Asst. Commissioner shall, within 15 days on receipt of the application after due enquiry, deny or approve the permission. If denied, the reason for such denial shall be informed to the applicant.

- (d) The applicant shall take print out of the generated Form No.16 from KVATIS, sign it and submit the same along with the self attested photocopy of the identity proof and other documents at the check posts/authorities concerned.
- (e) The facility for online generation of Form No.16 will be available in KVATIS from 15th January, 2015 onwards. From 1st February, 2015 the check post and the authorities shall accept only electronically generated Form No.16 through this procedure.

All persons employed in the implementation of this circular should bear in mind that the instructions contained in the circular is intended to curb the misuse of Form No.16 as stated in second para and, shall not be interpreted so as to affect the genuine rights of persons to purchase goods from outside the State.

The circulars read above are modified to the above extent.

Sd/-
COMMISSIONER

Annexure**Form No.16 for transportation of goods meant for own use – Procedure to be followed**

Certificate of Ownership in Form no. 16 is required for transportation of goods purchased for own use from outside the State and brought into the State. For obtaining Certificate of Ownership the following procedure is to be followed.

Step 1: From the Commercial Taxes official website: www.keralataxes.gov.in and click on e-Declaration at the home page. File application online by furnishing the following information.

1. Name and address of the person consigning / owns goods
2. TIN if registered dealer
3. Identification details (Electoral ID / PAN / License) (PAN mandatory if value of goods transported is more than Rs.50,000/-)
4. Telephone Number / Mobile number (necessary for receiving One Time Verification Password)
5. Purpose for which the goods are transported
6. Address from which goods are purchased
7. Address to which goods are transported
8. Details of Commodity transported
9. If building materials is transported, details of building permit & plan obtained from local authority.

Step 2: Verify the mobile number furnished by using the one time verification password and submit the application. If building materials, the application will be automatically forwarded for approval to the jurisdictional Inspecting Assistant Commissioner. The information as to whom the application has been forwarded for approval will be intimated as SMS. When the application is approved, the applicant will receive status alert on the mobile number. Approval of Inspecting Assistant Commissioner is not necessary for other commodities.

Step 3: Obtain e-Declaration in Form no.8F eToken for goods movement through check posts.

Step 4: Download the Certificate of Ownership in Form No.16 (After approval of Form 16 application in case of building materials) by furnishing the following details

1. Form 16 - Application No.
2. Identity No. furnished in the application

Step 5: The applicant shall take print out of the generated Form No.16 from KVATIS, sign it and submit the same along with the self attested photocopy of the identity proof and other documents at the check posts/authorities concerned.

No.ITMC-02/2012/CT

Office of the Commissioner of
Commercial Taxes,
Tax Towers, Killipalam,
Karamana, Thiruvananthapuram
Dtd.17-01-2015

CIRCULAR No.04 / 2015

Sub:- Works Contract – Filing of Form 10B Quarterly Return – Procedure –
Instructions – Certain Modifications Issued – Reg.

Ref:- Circular No.30/2014 dtd.06/12/2014.

The fourth proviso in Section 8(a) of the Kerala Value Added Tax Act, which came into effect on 1st April, 2014 vide Kerala Finance Act, 2014, is extracted below:

Provided also that in the case of any work compounded under this clause, and which remains unexecuted fully or partly as on 31st March, 2014, the contractor may continue to pay tax in respect of such works in accordance with the provisions of this clause as existed when he had opted for compounding up to 31st March, 2015:

So, it is clarified that as per the existing compounding provision for such on-going works, a contractor can pay compounded tax up to 31st March, 2015 at the rate as existed when he had originally opted for compounding.

This statutory provision was omitted to be recognized in the e-return-filing instructions described in the Circular cited above. This Circular is intended to rectify this omission. The return-filing module in KVATIS has been modified to include the above proviso.

COMMISSIONER

To

All concerned.

No.C1-40622/14/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O
Thiruvananthapuram 695002
Dtd.29-01-2015

CIRCULAR No. 05 / 2015

Sub: - KVAT Act – Sec.42 – Extension of time limit for filing audit report for the year 2013-14 with regard to Companies – reg.

The time limit for filing certified audited report in Form No.13 and Statement of particulars in Form No.13A by Companies for the assessment year 2013-14 is 31st January, 2015. Taking into account the representation received from various trade bodies, the time limit is extended upto 10th February, 2015. Further extension will not be granted in any case.

All assessing authorities shall take note of the above position.

Sd/-
COMMISSIONER

To

All concerned.

No.C1-12107/2012/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana
Thiruvananthapuram
Dtd.12 / 02 / 2015

CIRCULAR No.06 / 2015

Sub: - KVAT Act, 2003 – Digitally signed Form No.15 Delivery Notes –
Judgment of the Hon’ble High Court – Compiled with – Further
instructions issued – reg.

Ref: - 1) Circular No.8/2014
2) Circular No.19/2014
3) **Judgment of the Hon’ble High Court** in W.P.(c) No.11901/14,
17161/14 & 12730/14 dtd.23-09-2014
4) Proceedings of the CCT dtd.12/02/2015

As per Circular No.08/2014, the use of online delivery note was made mandatory, w.e.f. 26-04-2014, for all commodities except rubber and cement. Subsequently, considering the perishable nature of the commodity, dealers in hides and skin were also permitted to use manually filled Form No.15 Delivery Note.

In the light of the Judgment of the Hon’ble High Court cited above and considering the request made by various trade organizations / dealers, the usage of manually filled Form No.15 delivery notes is also permitted for the transportation of commodities like timber and agricultural products namely pepper, areca nut and cardamom.

The Circular cited 1st stands modified to the above extent.

Sd/-
COMMISSIONER

No. C3/16596/14/CT

Office of the Commissioner,
Commercial Taxes, Kerala,
9th Floor, Tax Towers,
Killipalam, Karamana P.O,
Thiruvananthapuram.
PIN - 695 002.
Dated: 28/3/2015.

CIRCULAR No.7/2015

Sub: Commercial Taxes –State Level Co-ordination Committee on Regulation of Non-Banking Financial Companies and Deposit Acceptance Activities of Un-incorporated Bodies – Curbing the menace of schemes for unauthorized collection of deposits/funds mobilization from public, illegal collective investment schemes, other investment frauds, etc. – Direction issued.

It has been brought to the notice of the State Government by the Reserve Bank of India that there are various illegal schemes operating in the Country for collection of funds from the gullible public. State Level Co-ordination Committee on Regulation of Non-Banking Financial Companies and Deposit Acceptance Activities of Un-incorporated Bodies are expected to play an effective role in early detection and prompt action against illegal schemes such as unauthorized collection of deposits/funds mobilization from the public, collective investment schemes, ponzi schemes, other investment frauds etc.

Reserve Bank of India has directed the Department to strengthen the market intelligence activities which would help in bringing to notice such instances on a regular basis.

In this regard it is also brought to notice that Government of Kerala vide Notification in S.R.O. No: 1132/85 dated July 23, 1985 has authorized officers of and above the rank of Sales Tax Officers of the Agricultural Income Tax and Sales Tax Department for making a complaint in the Court in respect of any offence punishable under sub-section 5A of Section 58B of the Reserve Bank of India Act (i.e. violation of Section 45S of the Reserve Bank of India Act).

In view of the facts stated above, it is directed that all the Inspecting Assistant Commissioners in charge of implementation of the Kerala Money Lenders Act, 1958 should closely monitor the functioning of money lenders to find out whether they resort to any unauthorized collection of deposits / funds from the public through collective investment schemes, ponzi schemes, other investment schemes etc. and also to report such instances if any, to the Reserve Bank of India and to the Government, through proper channel.


COMMISSIONER

To,
All concerned

C7-1022/2015/CT

Office of the Commissioner
Commercial Taxes
Thiruvananthapuram
Dated: 06.04.2015

Circular No. 8/15

Sub : KVAT Act, 2003 – Online application for amendment in registration certificate – Speedy disposal – Instructions issued - Reg.

Read: 1. Circular No. 10/2006/CT dtd. 28-02-2006
2. Circular No. 38/2006/CT dtd. 15-11-2006

Vide reference cited 1st, instructions were issued to simplify the procedure for granting registration under KVAT Act, 2003 and CST Act 1956. The simplification of procedure was intended to grant registration to genuine applicants in a prompt and time bound manner. Vide circular cited 2nd, further instructions were given to adhere to the time limit strictly.

It is now brought to the notice that even after filing online application for amendment in registration certificate (ie., to change the location of business place, to open new branches, to deal with additional goods etc.) along with the documents concerned like rent agreement, trade license, building tax receipt etc. some of the department officials are not keen on disposing of such applications in time.

In the circumstances, the following further instructions are issued.

All registering authorities are directed to see that the applications for fresh registration, change of location of business places, opening of new branches, addition of trading commodities etc. which are submitted along with necessary documents are disposed of within the time limit already prescribed. It is re-iterated that the loss of revenue, if any, incurred by way of granting registration through the deeming provision shall be recovered from the registering authority concerned.


Commissioner

No.C1-1/2015/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695002
Dtd.09-04-2015

CIRCULAR No.09 / 2015

Sub:- Salient Features of Kerala Finance Bill, 2015 and Operational instructions
– reg.

Kerala Money Lenders Act

The amount of security to be deposited in the Government Treasury U/s 4(2A) has been revised. The method of calculating the security amount has also been amended. As per the new provision, section 4(2B) regarding the amount lent by a licensee for the year for the purpose of determination of the security amount U/s 4(2A) is to be determined as the aggregate amount lent by him during the previous year. All Inspecting Asst. Commissioners are instructed to demand the additional security at the time of renewal of the license, as contemplated in the Kerala Money Lending Rules.

The fines/penalties payable under various Sections 11(1)(b), 13, 17, 18(1), 18A, 18B(1) and 18C(1) of the Act has been revised

Kerala General Sales Tax Act

- An additional sales tax of Rupees one per litre is imposed on HSD and PETROL. Sec.5D of the KGST Act has been amended to this effect.

Kerala Tax on Luxuries Act

- A 12.5% luxury tax will be levied on the charges of accommodation and other amenities provided in a Serviced Villa. Definitions and registration provisions will be similar to that of a serviced apartment.
- The rent limit for levying luxury tax in respect of charitable hospital exempted under Sec.18C of KVAT Act, will be Rs.2000/- per day in lieu of Rs.1000/- per day for normal hospitals.
- Registration / Renewal fees for hotels, auditorium, hall, kalyanamandapam, service apartments and villas, house boats, hospitals and home-stay stand enhanced as follows:

a) Hotels

	Fees
Star hotels	Rs.9375
Other hotels situated within Municipal Corporation area	Rs.1875
Other hotels situated within Municipal Council or Township area	Rs.1500
Other hotels situated within Grama Panchayat area	Rs.1125

b) Halls, Auditorium, Kalyanamandapam etc.

	Fees
Situated within Municipal Corporation area	Rs.1500
Situated within Municipal Council or Township area	Rs.1125
Situated within Grama Panchayat area	Rs.750

c) The registration and renewal fee for hospitals, home stays and serviced apartments / villas is Rs.1500/-.

d) For house boats, the registration fee is Rs.1500/- and renewal fee is Rs.750/-.

- Suo-motu revisional power to granted to Deputy Commissioner if the order passed by the lower authority is prejudicial to revenue.

Kerala Value Added Tax Act

- Multi Level Marketing entity, their distributors / agents are made liable to take registration and pay tax irrespective of their turnover.
- A clarificatory amendment has been introduced in definition of 'total turnover' in Sec.2(ii) of the KVAT Act specifying that in contracts involving sub-contracts, principal contractor is liable to pay KVAT on the differential amount after deducting the sub-contract amount as per Rules.
- Explanation II to Sec.6(5) regarding the determination of total turnover for opting presumptive tax is given retrospective effect from 01-04-2005.
- A negative list has been included on contractors having CST registration and such contract works were made ineligible for payment of tax under compounding scheme. The following are the items included in the negative list.

interior decoration and furnishing contracts, electrical, refrigeration or air conditioning contracts or contracts relating to supply and installation of plant, machinery, rolling shutters, cranes, hoists, elevators (lifts), escalators, generators, generating sets, transformers, weighing machines, air conditioners and air coolers, deep freezers, laying of all kinds of tiles (except brick tiles) slabs and stones (including marble).

As per Bill provisions, the negative list will be applicable ongoing works, which remain unexecuted fully or partly, during this year.

A composite contract for the construction of building which involves works included in the negative list also is excluded from the operation of above clause.

- Dealers in cooked food is permitted to compound under Sec.8(c)(i) subject to eligibility, for the periods prior to their registration under the Act.
- TDS rate for works contract executed under Sampoora Gramin Rosgar Yojana or Beneficiary Committee is also made 5% at par with schedule rate.
- Job worker receiving goods from outside the State for job works are made liable to take registration irrespective of the turnover limit.
- For first time registrants, there is no change in the registration fees.
- Registration renewal fees has been increased:
 - Dealers having VAT registration alone
 - Turnover upto Rs.25 lakhs – no change (Rs.500/-)
 - Turnover above Rs.25 lakhs – Rs.1000/-
 - Dealers having VAT and CST registration – Rs.3000/-
- It is clarified that the exemption to charitable hospitals under Sec.18C will be applicable to all hospitals run by charitable institution registered before the Income Tax authorities under Section 12(AA) of Income Tax Act.
- Period for completion of assessments under Sec.24 and Sec.25 including those extended under Sec.25B, which expires on 31-03-2015 has been extended upto 31-03-2016.
- Transporting agencies are made liable to take registration under Sec.52 of the Act.

- Officers not below the rank of assessing authorities are empowered for collection of information through survey or general inquiry with the prior approval of Officers of and above the rank of Deputy Commissioners.
- All companies and entities maintaining an e-Commerce website are made liable to file the details of goods sold through such sites which are both transported into and outside the State. They are also liable to register under KVAT Act for this purpose. Separate instructions will be issued.
- Section 94(2A) amended for payment of interest due along with the tax.

Change in tax rates

Textiles

- Section 6A of the Act, the enabling provisions for imposition of turnover tax on textiles, has been withdrawn. Instead, the entries of the First Schedule relating to textiles has been brought into the Second Schedule and thus made these commodities taxable at 1%.

Gold

- With respect to gold and other precious metals, the tax rate of 1% is limited only to 'gold bullion' sold by agencies notified by Director General of Foreign Trade and those authorized by RBI for import of gold into the Country, at the point of sale within the State. This entry is specific and without any HSN Codes assigned to it. All other bullions and articles of precious metals has been made taxable at 5%, at par with ornaments.

Cinematographic films

- Exemption given to sale of copy right and transfer of right of use of cinematographic films by virtue of 11th proviso to Sec.6(1) is withdrawn. Henceforth, to be taxable at 5% by virtue of Entry No.68 of Third Schedule and Section 6(1)(f).

Beedi and Beedi tobacco

- The tax rates of 'Beedi and beedi tobacco' is increased to 14.5% by omitting it from the First Schedule.

Printed flex and styrofoam

- The tax rate of 'Styrofoam and Styrofoam sheets' and 'Printed banners, hoardings and leaflets of poly vinyl chloride / polyethylene and other plastics sheets' has been increased to 20% by including the same in Section 6(1)(a).

Poultry feed

- A 1% tax is imposed on prepared poultry feed (Entry No.11 of the second schedule)

Liquefied Natural Gas

- Sale of Liquefied Natural Gas is exempted from tax for the period from 01-04-2015 to 31-03-2016 by the new eleventh proviso to Sec.6(1).

Toys

- By virtue of amendment in entry 130 of the Third Schedule, the tax rate of toys made of plastics is increased to 14.5%, at par with electronic toys.

The following items has been exempted from tax.

- Fabricated wall panels made of glass fibre reinforced gypsum (Entry 17A of 1st Sch.)
- Nylon ropes, polyesters ropes and polyester twines sold by Mathsyafed, Theeramythri units approved by Govt. and Fishermen Co-operation Societies (Entry No.18(5))
- Honey, honey bee box and accessories – Entry No.24B given retrospective effect from 01-04-2005.
- Plastic recycling plant and machinery (Entry 39A)
- Pyrolysis oil obtained from recycling of plastics at point of sale by such recycling units (Entry 39B)
- Rubber wood (Entry No.42C)
- Khadi products sold by manufacturing units approved by Khadi and Village Industries Commission also granted exemption (Entry No.55). As per Budget Speech this amendment will be granted retrospective effect. As such, no coercive action shall be taken till Kerala Finance Act, 2015.
- Used plastic and electronic waste (Entry No.63)

Others

- Brooms, brushes and mops made of plastic used for floor cleaning and toilet cleaning increased to 5% (New Entry No.18A of the Third schedule)
- Entry no.97A of the Third Schedule relating to pesticides, weedicides, insecticides given retrospective effect from 19-07-2011.

- Polyester ropes, nylon rope and polyester twines not included in the First Schedule increased to 5% (See the new entries 99A and 92A of the Third Schedule).
- Electronic goods and systems for defence purpose notified by the Govt. and manufactured by units situated in the State reduced to 5%. (See Entry 147 of Third Schedule)
- Entry No.84A of List A 'Lead Oxide' given retrospective effect from 01-04-2005.

Sd/-
COMMISSIONER

No.A5.4888/15/CT

Office of the Commissioner,
Commercial Taxes Department
Tax Towers, Karamana Post
Thiruvananthapuram
Dated: 08.04.2015.

CIRCULAR NO. 10/2015

Sub:-CTD – Transport of goods into the state through CTCs from outside the state without entering details at CTCs – stream lining of procedures to prevent evasion of tax – certain instructions issued – reg.

Ref:-Circular No.23/96 dated 20.05.1996 of Board of Revenue (Taxes), Tvm.

It has been brought to the notice of the Commissioner of Commercial Taxes that there are instances of goods vehicles passing through various Commercial Tax Check Posts without proper entries in the check post records. Large scale irregularity of this type has been unearthed during the interceptions by Intelligence Squad or higher officials. Such types of clandestine activities are on the rise and is considerably affecting the tax revenue of the state. It has also been brought to the attention of this office that some of the Intelligence Squads/higher officials neither record the statement of the driver nor report the fact to the higher authorities after interception of such type of vehicles. Hence large scale evasion is found to be taking place in connivance with check post officials which affects the tax revenue of the state. Hence it is decided to overhaul the existing system. In order to streamline the procedure of the existing system, the following instructions are issued.

The Intelligence Squad/higher officials who intercepts the goods vehicle which enters into the state of Kerala from outside the state without entering the details thereof at CTCs or non-collection of tax or excess load shall be detained and such vehicles brought to the CTC through which it had entered the state. After that a statement of driver of the vehicle will be recorded and the case reported along with the names of duty officials at CTC who made the lapses, to the Commissionerate directly marking a copy to their immediate superiors. The IACs (I) shall conduct a preliminary verification about the matter and forward report to the DC (I) concerned for onward transmission to this office. IAC (I) shall also send a copy of his report directly to the Commissionerate.

All officials concerned are instructed to comply with these directions without fail.

Sd/-
COMMISSIONER

Copy to;- All Deputy Commissioners/Deputy Commissioners (Intelligence) for information and communication to the subordinate offices.

Copy to:- File/Stock File.

No.C2-11808/11/CT

Office of the Commissioner
Commercial Taxes, Tax Towers
Killippalam, Karamana P.O
Thiruvananthapuram 695002
Dated. 18.04.2015

CIRCULAR No. 11/ 2015

Sub: - Commercial Taxes Department – Fixation of floor value of Marbles & Granites for collection of advance tax – Instruction issued- Reg

Ref:- 1) Circular No.06/2014 dtd.14.02.2014

2) Lr. No. C5-1504A/13 dated. 27.03.2015 of the Deputy Commissioner, Ernakulam

The existing floor rate of Tiles, Marbles and Granites were fixed as per Circular referred 1st above.

Kerala Marble and Granite Dealers Association filed a petition stating that the floor rate fixed for granite tile is higher than that of granite slab which is unjustifiable. The Hon'ble High Court of Kerala also directed the Commissioner to consider and issue appropriate orders on the grievances raised by the Association.

There is a permanent mechanism in Commercial Taxes Department to review/analyse the price fluctuations of these commodities in the market. Pursuant to that instruction has been given to the committee constituted, to study the aspect and to furnish suggestions/findings after considering the grievances raised by the association and the prevailing market price.

The committee submitted the report as per reference 2nd cited above and recommended to revise the floor rates.

Considering the recommendations of the committee and market reality the following minimum values are fixed for Marbles & Granites for the purpose of calculation of advance tax.

1.	Marble Slabs	Rs. 533/- per Sq. Mtr (Rs. 49.5/Sq. Ft) or The purchase value + Freight Charges+10% GP, whichever is higher.
2.	Granite Slabs (Granite Gang Saw Slabs)	Rs. 1184/- per Sq. Mtr (Rs. 110/Sq. Ft) or The purchase value + Freight Charges+10% GP, whichever is higher.
3.	Granite Slabs (Granite Cutter Slabs)	Rs. 700/- per Sq. Mtr (Rs. 65/Sq. Ft) or The purchase value + Freight Charges+10% GP, whichever is higher
4.	Marble Tiles	Rs. 377/- per Sq. Mtr (Rs. 35/Sq. Ft) or The purchase value + Freight Charges+10% GP, whichever is higher
5.	Granite Tiles	Rs. 538/- per Sq. Mtr (Rs. 50/Sq. Ft) or The purchase value + Freight Charges+10% GP, whichever is higher

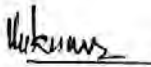
In order to arrive at a uniform method in measurement, it is directed that all dealers shall mention the quantity in square meter (M²) in invoices. If the consignments are brought from outside the state using other units of measurements,

the quantity should be declared at the check post / before the assessing authority in meter square (M²) along with declaration in form No. 8F / 8FA.

While filing the stock statement as well as audit report, the quantity should be specified in meter square.

All officers are directed to ensure that the volume of purchase and sale of all types of these items are given in square meters and that the values declared are not below the floor rates fixed above.

This order shall take effect from **21.04.2015**.


COMMISSIONER

No.C1-14518/15

Office of the Commissioner,
Dept. of Commercial Taxes,
Tax Tower, Karamana,
Thiruvananthapuram.
Dated: 25.04.2015.

CIRCULAR No. 12/15

Sub:- Time limit for filing application for compounding and registration renewal for the year 2015-16 extended – instructions issued.

.....

Certain server related issues have caused a slowdown in the KVATIS software application which is being rectified. Consequently various trade organizations have requested the department to extend deadline for filing of application for compounding and renewal of registration.

In the circumstances the following instructions are issued.

- 1) The last date for filing option for the payment of compounded tax under Section 7 of KGST Act, Section 5A of KTL Act and Section 8 of the KVAT Act for the year 2015-06 is extended upto 20th May, 2015.
- 2) The last date for filing application for renewal of registration under KVAT Act, KGST Act and KTL Act for the year 2015-16 is extended upto 15th may 2015.

**Sd/-
COMMISSIONER**

No.C1-14518/15/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695002
Dtd.15 / 05 / 2015

CIRCULAR No.13 / 2015

Sub: - Time limit for filing application for compounding and registration renewal for the year 2015-16 extended – Further instructions issued – reg.

Read: - Circular No.12/2015

To mitigate the hardships on account of present load caused on the KVATIS server and the resultant connectivity issues, the following instructions are issued in supercession of the circular read above.

- 01) The last date for filing option for the payment of compounded tax under Section 7 of KGST Act, Section 5A of KTL Act and Section 8 of KVAT Act for the year 2015-16 is extended upto 5th June, 2015.
- 02) The last date for filing application for renewal of registration under KVAT Act, KGST Act and KTL Act for the year 2015-16 is extended upto 20th May, 2015.

Sd/-
COMMISSIONER

No.C1-17283/15/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695002
Dtd.25-05-2015

CIRCULAR No.14/2015

Sub:- KVAT Act, 2003 – Maximum compounding fee collectable under
Sec.74 – Instructions issued – reg.

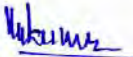
As per Kerala Finance Act 2008, the following proviso was added to
sub-section (1) of Section 74:

*"Provided that the maximum compounding fee
collectable against a single offence spread over
several return period in a financial year shall be two
lakh rupees".*

Subsequently, by Kerala Finance Act 2009, the monetary limit of the
maximum compounding fee collectable under sub-section (1) of Section 74
was enhanced to Rupees Four Lakh. Later by Kerala Finance Act 2011, this
was further increased to Rupees Eight Lakh.

Now, doubts have been raised as to whether the amendment made by
Kerala Finance Act 2009 and 2011 revising the limit of the maximum
compounding fee collectable will be applicable to the proviso inserted to the
sub-section (1) of Section 74.

The changes proposed as per the Kerala Finance Act 2009 and 2011 in
Section 74 (1) covers the whole of sub-section (1) of Section 74. It is hence
squarely applicable to the proviso attached to the sub-section also. This
position is brought to notice of all concerned for strict observance.


COMMISSIONER

No.C2-23004/2013/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – PO
Thiruvananthapuram 695002
Dtd. 29/ 05 / 2015

CIRCULAR No.15 / 2015

Sub:- Registration and furnishing of details by Electronic Commerce Websites -
New Section 54A introduced in KVAT Act, 2003 vide the Kerala Finance
Bill, 2015 – Operational instructions issued - reg.

The newly introduced Section 54A of the KVAT Act is reproduced below.

"54A. Entities engaged in electronic commerce to furnish certain details.—All companies and entities maintaining an electronic commerce website shall file monthly, the details of goods sold through such sites in such form as may be prescribed, which are transported into or outside the State as a result of such sale. For this purpose they shall take registration under this Act, in such manner as may be prescribed."

For facilitating the registration and filing of details the following operational instructions are issued.

- For the purpose of registration under Sec.54A, the company / entity shall file application before the Assistant Commissioner – 1 (Assessment) Special Circle, Tax Towers, Killipalam, Karamana P O, Thiruvananthapuram (Phone: 0471 2785055, e-mail – tvmac3splcir@keralataxes.gov.in) in the format given as Annexure – I.
- Along with the application, the following documents shall also be submitted.
 - 1) Copy of the Memorandum of Association and Articles of Association and Certificate of Incorporation of the Company/Entity.
 - 2) Resolution of the Board of Directors regarding the appointment of the authorized person for applying for registration and filing of returns under Sec.54A of the KVAT Act.
- No registration fee or security deposit shall be insisted for grant of registration.
- If the documents filed are in order, the Asst. Commissioner shall grant registration to the company / entity.
- The company shall file returns under Sec.54A of the Act in the format prescribed in Annexure – II before every 20th day of the succeeding month.


COMMISSIONER

Annexure - I

Application for registration under Sec.54A of the Kerala Value Added Tax Act

1	Name of the website	
2	Name of the entity / company maintaining the website	
3	Registered office address of the company / entity / person	
	a) Building Name / No.	
	b) Area / Road	
	c) Locality	
	d) PIN Code	
	e) E-mail ID	
	f) Telephone Number	
4	PAN Number	
5	Corporate Identity Number (CIN)	
6	Service Tax Registration Number	
7	Address of business place /godown/ registered office of the company in the State with TIN, if any.	
8	Name and address of the authorized signatory(s) / appointed for applying for registration and for filing returns as per Sec. 54A of the KVAT Act.	
	a) Building Name / No.	
	b) Area / Road	
	c) Locality	
	d) PIN Code	
	e) E-mail ID	
	f) Telephone Number	
	g) PAN Number	

I son / daughter / wife / husband of hereby declare that to the best of my knowledge and belief, the particulars furnished in this application as above are true and correct.

Place:

Date:

Signature:

Name of authorized signatory:

Annexure - II**THE KERALA VALUE ADDED TAX ACT, 2003**

Return format for Electronic Commerce Website
(See Sec.54A))

To,
The Asst. Commissioner

Date:

Special Circle
THIRUVANANTHAPURAM

Year	
Return Period	

PARTICULARS

TIN granted under Sec.54A	
---------------------------	--

Name of the e-Commerce Website			
Name of the Company / Entity / Person			
Address			
Name and address of the authorized signatory			
Phone No:	Fax:	Email:	Website:

Declaration

I/We declare that I/We have compared the details stated in the annexure with the records and books regarding the transactions maintained by me / us and the same are truly, correctly and completely stated.

Place
Date

Signature of authorized signatory :
Name:
Status:

Annexure

Annexure of details will be uploaded along with the monthly return

Details of goods transported into Kerala during the month of								
Sl. No.	Invoice No. & Date	Name & address of the seller	State of origin	Name & address of the purchaser in Kerala	Commodity description	Value including tax	Payment mode	Transporter / Courier agency name
1	2	3	4	5	6	7	8	9
Details of goods transported out of Kerala during the month of								
Sl. No.	Invoice No. & Date	Name & address of the seller	TIN of the seller	Name & address of the purchaser	Commodity description	Value including tax	Payment mode	Transporter / Courier agency name
1	2	3	4	5	6	7	8	9

No.C1-18945/15/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O
Thiruvananthapuram 695002
Dtd.03-06-2015

CIRCULAR No.16 / 2015

Sub: - KVAT Act, 2003 – Last date for filing of Annual Return for the
year 2014-15 – Extended – reg.

Considering the request from the various trade bodies and dealers, the
last date for filing Annual Return and enclosures for the year 2014-15 under
Kerala Value Added Tax Act is extended upto 30th June, 2015. No further
extension will be granted.

All assessing authorities shall take note of the above position.

To

COMMISSIONER

All concerned.

No.C1-23494/14/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695002
Dtd.25-06-2015

CIRCULAR No.17 / 2015

Sub:- KVAT Act – Over assessment – Appeal allowed in favour of
assessee refund of excess amount paid – Instructions – reg.

Ref:- Para 15 of the Eleventh Report of the Estimate Committee
(2011-14).

The Estimate Committee has recommended that a provision is to be made to refund within a short period the excess amount, if any collected by way of “over assessments”.

Best judgment and exparte assessments are the subject matter of the recommendation of the Estimate Committee while referring to “over assessments”. Inevitably, such assessments may sometimes be construed as excessive.

If a dealer is aggrieved by an order passed by the assessing authority on the ground that it is a case of over assessment and prefers an appeal or revision against such assessments and the appellate / revisional authority allows the appeal in favour of the assessee, the amount paid in excess has to be refunded to him.

Henceforth, all assessing authorities shall dispose of such refund claims within two months from the date on which the dealer submitted all the relevant records, rectifying the defects if any pointed out.


COMMISSIONER

No.C1-14518/15/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695002
Dtd.30 / 06 / 2015

CIRCULAR No.18 / 2015

Sub: - Time limit for filing application for compounding for the year
2015-16 – Further extended – Instructions issued – reg.

Ref: - Circular No.13/2015 dtd.15-05-2015

Considering the request from trade bodies and various organizations,
the last date of filing option for the payment of compounded tax under
Section 7 of KGST Act, Section 5A of KTL Act and Section 8 of KVAT Act for
the year 2015-16 is further extended upto 31st July, 2015.

Circular read 13/2015 stands modified to the above extent.

Sd/-
COMMISSIONER

No.C7-16608/14/CT

Office of the Commissioner
of Commercial Taxes
Tax Towers, Karamana
Thiruvananthapuram 695002
Dated. 06.07.2015

CIRCULAR No. 19/15

Sub: - Commercial Taxes Department – Procedure relating to release of goods which are intercepted and detained– Instruction issued – reg.

Ref: - Judgment of Hon'ble High Court in O.T. Rev. No. 102 of 2012 dated. 28th May, 2013

Hon'ble High Court of Kerala in the Judgment O.T. Rev. No. 102 of 2012 dated. 28th May, 2013 put forward certain suggestions and directed Commissioner of Commercial Taxes to issue a circular or notification for strict obedience by officers at all levels, to streamline the procedure relating to release of goods which are intercepted and detained.

In compliance of the direction of Hon'ble High Court, the following instructions are issued.

1. The goods can be released to the Consignor/Consignee/Transporter against sufficient security as provided in the KVAT Act.
2. In case the goods are in the custody of the common carrier along with other goods, the goods in question may be released to the transporter.
3. In case authorised persons of the consignor/consignee are appearing before the authority for the release of goods, the goods can be released on production of proper authorisation of consignor/consignee as the case may be.
4. The aforesaid authorisation shall contain the full name, address and status of the person who is issuing authorisation, the full name and address of the authorised person, attested signature of the authorised person, the date of authorisation, and the purpose and scope of authorisation.
5. The authorisation shall preferably be in the letter pad of the consignor/consignee with seal.
6. The authorisation shall be valid for a maximum period of 60 days.

7. The authorised person shall produce the authorisation and his ID proof (except for the Advocates, Chartered Accountants and Registered Sales Tax Practitioners).
8. The Chartered Accountants, Advocates and Registered Sales Tax Practitioners appearing before the detaining authority shall furnish relevant details showing their professional status.
9. The goods shall be released only against production of OR Notice (in original), ownership details such as title to goods, consignee copy of Lorry Receipt/Railway Receipt/Airway Bill, Bill of Lading etc;
10. The authorisation shall contain relevant detail about the goods sought to be released.


COMMISSIONER

Copy to: All concerned.

No.E1-25305/15//CT.

Office of the Commissioner,
Commercial Taxes,
Thiruvananthapuram,
Dated : 29.07.2015.

CIRCULAR NO. 20/2015

Sub: Reports of the C&AG – Effective utilization of recurrent defects in C&AG reports in assessment for revenue augmentation and reduction of number of paras in C&AG reports – Reg.

.....

The Public Accounts Committee has expressed serious concern over the recurrent defects included in the C&AG Reports during the last meeting held on February 2015. It is the fact that almost all the defects are rectified by the assessing authorities by completing the assessment in line with the audit queries. This underlined the serious lapses/ignorance on the part of the assessing authorities in daily scrutiny of assessment records/system based scrutiny. In the circumstances the recurrent defects contained in the C&AG reports are bunched below for the strict utilization in avoiding recurrence of such short levy in assessments.

1. Absence of cross verification of external data such as information obtained from Controller General of Patents and Trade Marks, Customs Department with the returns of the dealer .
2. Not checking the turnover difference between audited accounts and returns.
3. Misclassification of the items such as margarine, soap/safety matches (machine made & hand made), digital printers (Margarine taxable @ 14.5% - Entry 64(8) of notified list of SRO No.82/2006, Soap – Detergent – is taxable @ 14.5% as per entry 27 of notified list of SRO 82/06, safety matches - machine made - taxable @ 5% as per entry 110 of 3rd schedule to KVAT Act, Digital printer is taxable @ 14.5%)
4. Irregular claim of exemption in the guise of works contract in erection of airconditioners, plant & machinery, motor bodies on chasis of motor vehicles, tyre retreading etc.
5. Escapement of turnover due to non reckoning of income received due to price variation, royalty, video rights, warranty charges, DEPB licence etc.
6. Irregular claim of input tax and turnover escapment in cases of discount received (sec 11 of KVAT Act).
7. Turnover escapment due to direct expenses such as transporting charge. If the seller is under obligation to transport goods to the place of the buyer, any incidental or transportation expenses charged will form part of the sales consideration Expln.III(i) to sec.2(lii) of KVAT Act 2003.
8. Application of incorrect rate of tax in case of works contractors who have cancelled CST registration in violation of provision under section 7(5) of CST Act.
9. Irregular claim of IPT/special rebate in stock transfer/exempted transfer of rubber goods (out)/sale on subsidy/ sales to SEZ/ damaged goods/ sale of 1st schedule goods/ compounding etc.
10. Irregular grant of compounding in cases coming under negative list viz. electrical contracts, refrigeration and airconditioning contracts etc.

11. Incorrect computation of compounded tax of metal crusher units where the actual size and number of machines are concealed.
12. Incorrect computation of compounded tax in case of hotels/ bar and gold dealers (sec.8 of KVAT Act).
13. Omission of levy of surcharge under section 3(1A) of Surcharge Act.
14. In works contract the taxable turnover arrived under Rule 10(2)(a) of KVAT Rules is less than the cost of goods transferred in the execution of works contract then the taxable turnover will be cost of goods transferred together with the profit.
15. Turnover escapment detected from check post details in KVATIS.
16. Payment made by the dealer incorrectly appropriates first towards the principal outstanding instead of the interest (sec.91 of KVAT Act, sec.55(c) of KGST Act).
17. Medicine dealer availed irregular exemption for sales turnover of medicine out of interstate purchase (sec.8 of the KVAT Act).
18. IPT availed in excess of actual due in lieu of computing error, purchase return misclassification etc.
19. Incorrect compounding rate of Govt. Contractors holding CST registration @ 4% instead of 5%.
20. Special rebate availed in excess of 6(2) purchase tax paid.
21. Fixed asset sales turnover is omitted to include in the return.
22. Compounded works contractor dealer failed to remit the 6(2) tax due.
23. Sales turnover conceded is less than stock transfer receipt.
24. Consignment sales turnover is not conceded but consignment commission is shown in the P&L Account.
25. Lease rent received is not assessed as transfer of right to use envisaged u/s 6(1)(c) of the KVAT Act.
26. Turnover difference between return and purchase/ sales statement uploaded in KVATIS.
27. No proof for purchase/ sales return.
28. Under valuation of rubber/cashew based on the price rate of Rubber Board/ Cashew Development Board.
29. Sale price conceded is less than that reckoned for advance tax.
30. In works contract, transfer of goods involved in execution of works contract, where the transfer not in the form of goods but in some other form is assessed @ 5% instead of the correct rate @ 14.5%.
31. Interstate purchase/ stock transfer conceded is less than as per the issue register of C/F forms submitted by the assessee to the department.
32. Dealer in motor vehicles conceded the turnover of motor vehicles as used vehicles.
33. Excise duty is not taken as the part of sales turnover (sec.2(xliv)).
34. IPT availed on purchase of building materials and fixtures used in construction activity as capital goods. (SRO 324/05)

35. Freshly compounded dealer is not reversing the IPT taken in the previous year for the purchase of goods held as stock at the end of the previous year.

All assessing authorities of the department are directed to examine the above aspects meticulously while scrutinizing the returns/ records and utilize the same in assessment if warranted.

All supervisory officers are directed to ensure that the instructions are scrupulously followed by the officers.

Sd/-
COMMISSIONER

To

All concerned.

No.C1-12107/12/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695002
Dtd.03-08-2015

CIRCULAR No.21 / 2015

Sub: - KVAT Act, 2003 – Use of Online Delivery Note – Certain instructions issued – reg.

Ref: - Circular No.21/2012

As per Circular No.21/2012 digitally signed delivery note was made mandatory from 1st October, 2012. Feedback from various quarters now has revealed that inordinate delay is being experienced for the generation and submission of digitally signed delivery notes compared to service where digital signature is not mandatory. This has been causing lot of hardship to the dealers for transporting goods within the State.

To alleviate the hardships on account of constraints in timely delivery of digitally signed delivery note, it has been decided to do away with the digital signing of delivery note till the technical difficulties are resolved. Hence from 6th August, 2015 onwards, dealers will be permitted to download Delivery Notes without digital signature. The service can be availed from their KVATIS login account only until further orders.

Sd/-
COMMISSIONER

No.C1-1/15/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695002
Dtd.07-08-2015

CIRCULAR No.22 / 2015

Sub: - KVAT Act – Exemption to Special Economic Zone unit –
Works undertaken by sub contractors – reg.

Clause (b) of Section 6(7) of the KVAT Act, 2003 is extracted under:

"(b) sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any Special Economic Zone in the State for setting up the unit or use in the manufacture of other goods shall, subject to such conditions or restriction, as may be prescribed, be exempted from tax.

Provided that the exemption covered by this clause shall be applicable to a deemed sale involved in a works contract exempted through a sub-contractor also."

The proviso to clause (b) was inserted by the amendment made by Kerala Finance Act, 2014, thereby clarifying that exemption to SEZ units is available to the sub contractor also, if the work is done by them.

As per the Rule provision, a dealer, who makes sale to an industrial unit in the Special Economic Zone, has to obtain a declaration in Form No.43 duly signed and sealed by the purchaser in the Special Economic Zone unit. Even though the provision inserted by Kerala Finance Act, 2014 is a substantial one, the trade has pointed out that certain assessing authorities are declining exemption to the registered sub contractors for want of Form No.43, which they are not in a position to obtain. To resolve the difficulty faced by such sub contractors, it is decided to prescribe a form for the purpose of producing the same before the assessing authority of the registered sub contractor. Henceforth, in such cases, the sub contractors shall obtain a declaration in the format given below to make them eligible for exemption vide clause (b) of sec.6(7).

Sd/-
COMMISSIONER

**DECLARATION FOR CLAIMING EXEMPTION ON THE SALE OF GOODS
BY SUB-CONTRACTORS UNDERTAKING THE WORKS OF UNITS IN SEZ**

Help Line contact persons Ph. Nos.

Date	D	D	-	M	M	-	Y	Y	Y	Y
TIN										

This is to certify that I / We (name and address of the Principal Contractor with TIN) have awarded the sub contract to M/s..... (name and address of the sub contractor with TIN) in respect of the work awarded to me by M/s..... (name of the Industrial Unit in the Special Economic Zone with TIN) as per the particulars furnished here under, which has been duly incorporated in the returns filed by me under the Act.

01. Work Order No. & Date :
02. Nature of sub contract(s) :
03. Description of the Principal Contract in relation to which the sub contract is awarded :
04. Gross amount of contract between awarder and Principal contractor :
05. Sub contract amount eligible for exemption :

Name, Signature and Seal of
the Assessing Authority of
the Principal Contractor

Signature & name of
the Principal Contractor

No. D2 – 25909/2015/CT

Office of the
Commissioner of Commercial Taxes,
Thiruvananthapuram Dated 07/08/2015

Circular No. 23/2015

Sub:- Estt – Department of Commercial Taxes – Implementation of VAT System of Taxation – Duties and Functions of the Assessing Authorities of the Assessment Wing including Luxury Tax Officers – Certain direction issued
Reg -

Ref:- Meeting of the District Deputy Commissioner's held on 28/07/2015.

Consequent of the implementation of the Value Added System of Taxation in the State with effect from 01/04/2005, the compulsory final assessments are dispensed with and the voluntary filing of returns are encouraged as deemed assessment. Additional demand is being created after scrutinizing the monthly and annual returns utilizing Crime files, Enquiry files, Data-mining reports, C & AG's Audit report and other informations received from external agencies. It is noticed that there are huge pendency of Crime files and Enquiry files without utilizing in assessments, and there are huge pendency of CST Assessments, KGST Assessments and IT Assessments. In the circumstances, in order to wipe out the enormous pendency of Crime Files, CST, KGST and Luxury Tax Assessments it is necessary to fix quota of assessments for the Assessing Authorities as shown below :-

- | | |
|--|--------------|
| 1. Assistant Commissioner (Assessment), Special Circle | 15 per month |
| 2. Commercial Tax Officers in ordinary Circle | 25 per month |
| 3. Commercial Tax Officer, Luxury Tax | 30 per month |

In achieving the above targets the following direction also should be complied by all Assessing Authorities.

1. Compulsory scrutiny of prioritized monthly returns and annual returns.
2. Utilization of potential Crime files / OR files.
3. Utilization of data mining reports and sustainable objections raised by Internal Audit Wing / C & AG

While completing the Assessments, the assessing authorities shall ensure that principles of natural justice are complied with. The Supervisory Officers (IACs and Dcs) also shall ensure that standing instructions are complied with in regard to approval of pre-assessment notices issued.

The receipt of the circular shall be acknowledged by all Deputy Commissioners and get acknowledgement from their sub-ordinates


For COMMISSIONER
21

No.G1 35000/15/CT

Office of the Commissioner,
Commercial Taxes,
Thiruvananthapuram.
Dated: 19.10.2015

CIRCULAR No.24 /15/CT

Sub:- Commercial Taxes Department- Declaration of probation of Officers appointed in this Department in various cadre– guidelines for forwarding proposals – reg

Ref:- This office Letter No. G2 26070/11/CT dated: 02.08.2011

Attention of all officers is invited to the letter cited, wherein guidelines were issued to all Deputy Commissioners regarding the procedure to be followed while forwarding the proposals to Commissionerate for declaring the probation of officers in various cadre.

At present, a person appointed in the cadre of Assistant Commercial Tax Officer will be on probation for a period of one year duty within a continuous period of two years and a person appointed in the cadre of Commercial Tax Officer will be on probation for a period of two years duty within a continuous period of three years. The period of probation of Assistant Commissioners/ Deputy Commissioners/ Joint Commissioners are six months duty within a continuous period of one year.

Now, the Government have forwarded a new Proforma for forwarding the proposals for declaration of probation in the cadre of Assistant Commissioner and above, and directed to forward the same along with a copy of the first RTC in the cadre. Hence from now onwards the proposals for declaration of probation in the cadre of Assistant Commissioner and above should be forwarded in the new proforma and the proposals for declaration of probation in the cadre of Assistant Commercial Tax Officers and Commercial Tax Officers should be forwarded in the existing proforma.

Moreover it has come to the notice of this office that many of the proposals are received bearing common defects, taking a considerable time for processing the applications. In the circumstances, the following guidelines are newly issued for enabling the controlling Officers to avoid any such mistakes in future.

1. The proforma should be neatly typed and all columns should be duly filled.
The term N.A may be noted if a particular column is not applicable to the officer. (a specimen copy of the new Proforma attached)

2. PEN and GE No. should be noted against Column No.1 of the proforma
3. Date of commencement of service in the probation post should be noted in column No.5 (d) of the proforma.
4. Column No. 7 (e) of the proforma has to be filled up by the controlling officers.
5. Special leaves other than Casual Leave availed by the probationer during the period of probation, period of suspension, period of absence/ Dies non, if any, should be specified in column No. 9 (a) of the proforma.
6. Holidays, prefixed or suffixed along with the leave should be noted in column No.9(b) of the proforma.
7. The proforma should be signed by the controlling officer specifying his name and affixing his designation seal and office seal.

All the Deputy Commissioners are further directed to obtain specific remarks on the duties/tasks assigned to the probationer from their respective controlling officers relating to the period spent by them, before filling up the column No.7(e) of the proforma and ascertain by himself that the work and conduct of the probationer is satisfactory during the period of probation, before certifying the same, (reports need not be attached, except any adverse comments).

The Officers are directed to scrupulously follow these instructions. The proposals received hereafter ignoring the above guidelines will be summarily rejected and any such lapse will be viewed seriously. The Deputy Commissioners shall acknowledge the receipt of the Circular and obtain acknowledgment from their subordinates.

Sd/-
COMMISSIONER

To
All Officers.

/ Approved for issue/

Superintendent

No.C2/22421/08/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana - P.O.
Thiruvananthapuram 695002
Dtd..17 / 11 / 2015

From
The Commissioner

To
All Deputy Commissioners &
All Deputy Commissioners (Int.)
Commercial Taxes Dept.

Sir,

Sub:- KVAT Act, 2003 – Import of timber – Levy of advance tax – Floor rate fixed
– Certain anomalies in the fixation – Circular withdrawn – Direction issued
– reg.

Ref:- 1) Circular No.25/2015 dtd.11-11-2015
2) Reptn. from All Kerala Timber Importers Association, Kakkanad, Kochi.

As per Circular cited as reference 1st above, the floor rate of different types of timber was fixed for the purpose of collecting advance tax with effect from 11-11-2015.

Now, M/s. All Kerala Timber Importers Association, Kakkanad, Kochi vide reference 2nd cited has pointed out certain anomalies involved in the floor rates fixed and also in the basis of measurement adopted for the same.

The issues raised therein has been examined. It is seen that the issue needs detailed examination. As such it is directed that the Circular instructions issued vide reference 1st cited shall be kept in abeyance until further orders.

Yours faithfully,

Sd/-
COMMISSIONER

// By Order //


Joint Commissioner (General)

C2/22421/2008/CTOffice of the Commissioner
Commercial Taxes,
Thiruvananthapuram
Dtd: 11/ 11/2015**CIRCULAR NO.25/15**

Sub: - Commercial Taxes Department – Price fixation of Imported Timber
- instructions issued - reg.

Ref: - 1) Circular No. 17/2012 dated 18.06.2012
2) Circular No. 22/2012 dated 01/08/2012
3) Order no. C2/22421/08/CT dated 28.03.2011 of the CCT
4) Report No. DC (I) K4 1268/15 dated 18.09.2015 of DC (Int.),
Kozhikode.

As per the Circulars read above, floor rates were fixed for imported timber varieties for the purpose of collection of Advance tax /Security Deposit. It has been brought to the notice of the Department that the prices of these varieties have increased significantly since then. Hence, vide reference 2nd cited above, an expert committee was constituted consisting of the three Zonal Deputy Commissioners (Intelligence) and Deputy Commissioners of Thiruvananthapuram, Kollam, Palakkad and Kozhikode, to study the issue and to suggest whether any revision of floor price is necessary.

The committee analyzed the market intelligence, data relating to wholesale prices and other trade practices prevailing throughout the state. The actual profit margin at various levels of business, incidental expenses like freight, insurance, loading and unloading charges etc. were also considered. The committee also heard representatives of the trade on 18.08.2015 and submitted their report with recommendations vide reference 4th cited above. A committee of three Joint Commissioners had further examined the report.

From the facts evolved from the deliberations, it is seen than the revision in the floor rates fixed is imminent. So, considering the recommendations of the Committee and in the interest of revenue, the floor rates of imported timber

fixed as per circular referred 1st and 2nd above are revised as under for the purpose of collection of Advance Tax as per section 47(16A) of the Kerala Value Added Tax Act, 2003.

Type	Floor rate per cubic feet (In Rs.)
Pincoda	1145
Purple Heart(violet)	1075
Green Heart	1075
Mora/Cibida/Kabukali	570
Padak	1290
Kussia	1075
Sal	1075
Beachwood/ Ashwood	1145
Sudan Teak logs (having maximum length of 270cm and maximum girth of 125 cm)	1000
Other Teak	2575

This order will take effect from 11/11/2015


COMMISSIONER

Copy to: All concerned

No. C3/35960/12/CT

Office of the Commissioner,
Commercial Taxes, Kerala,
9th Floor, Tax Towers,
Killipalam, Karamana P.O,
Thiruvananthapuram.
PIN – 695 002.
Dated: 11/11/2015.

CIRCULAR No. 26/2015

Sub: KVAT Act, 2003 – Multi-level Marketing Entities – Registration, payment of tax at Compounded rates - Operational guidelines issued.

Read : 1. Circular No. 5/2011 dated 31/3/2011.
2. Kerala Finance Act – 2015.
3. Circular No. 1871/C2/2014/TD dated 14/9/2015 issued by the Principal Secretary, Taxes (C) Department, Government of Kerala.

In order to streamline the functioning of the Multi-level Marketing sector in the State of Kerala and also to ensure that the revenue due to the State ex-chequer is duly received, it was announced in the Kerala Budget – 2015 that all multi-level marketing companies, their distributors and agents would be made liable to take out registration under the Kerala Value Added Tax Act, 2003. As per Para 322 of the Budget Speech – 2015, it was announced that:

322. All Multilevel Marketing Companies, their distributors and agents would be made liable to take registration and pay tax under the Kerala Value Added Tax irrespective of their turnover.

Accordingly certain amendments were made in the relevant Sections of the Kerala Value Added Tax Act, 2003 by the Kerala Finance Act - 2015, which, as relevant to the context, is extracted hereunder:

(a) In Section 2, the following clauses were inserted:

“(xxviiA) “multi-level marketing” means marketing and sale of goods of a multi-level marketing entity through direct sellers or through direct sellers and distributors, otherwise than through shops, to the customers or consumers, generally in their houses or at their workplace or through demonstration of such goods at a particular place or by mail order sale;

(xxviiB) “multi-level marketing entity” means a company registered under the Companies Act, 2013 (Central Act 18 of 2013) or any partnership firm registered under the Partnership Act, 1932 (Central Act IX of 1932) or under the Limited Liability Partnership Act, 2008 (Central Act 6 of 2009) engaged in multi-level marketing;”

(b) In sub-section (1) of Section 6, the following words were inserted:

“or any multi-level marketing entity, their distributor and/or agent engaged in multi-level marketing”

(c) In Section 8, the following clause was inserted:

“(i) Any dealer who is a multi-level marketing entity may, at his option, pay, in such manner and subject to such conditions and restrictions as may be prescribed, in lieu of the tax payable by him on such goods under sub-section (1) of section 6, tax at the schedule rate applicable to goods, of the maximum retail price of such goods.

Provided that the provision of this clause shall not apply to such goods sold by multi-level marketing entities otherwise than by way of multi-level marketing:

Provided further that notwithstanding anything contained in section 6 and section 15, if multi-level marketing entities pay tax on maximum retail price under this provision, subsequent dealers in the chain shall not be liable to take out registration and shall be exempted from payment of tax on such goods."

(d) In sub-section (2) of Section 15, the following clause was inserted:

"(xii) any multi-level marketing entity, their distributor and/or agent engaged in multi-level marketing;"

Now the trade has brought to the notice of the Department certain practical difficulties being faced by them on account of the above said amendments with particular reference to their online Registration and payment of tax under Compounding Scheme.

At present, the KVATIS does not have any specific provision for the Registration of Multi-level Marketing entities and for opting payment of tax under Compounding scheme for such entities.

As such, the following amendments are hereby made in the Forms concerned namely:

1. in Form No. 1 - Application Form for On-line Registration:

in Serial No. '11. Nature of Business' after sub-item 'k. Others (specify)', the sub-item 'l. Multi-level Marketing Entity / Distributor / Agent' shall be inserted;

2. in Form No. 1B – On-line Application for Salesman Permit / Exhibition or Exchange Mela / Compounding / Liability Certificate / Registration Renewal:

(i) in the item 'Category of Dealer' under the heading '**Compounding under Section 8**' after the word and symbol 'Medicine /', the words 'Multi-level Marketing Entity' shall be inserted;

(ii) after the item '9. Medicine Dealers' and the sub-items under it, a new item namely:

' 10. Multi-level Marketing Entity

a. I opt for compounding for the financial year :

i. Whether compounding on MRP opted for the preceding year : Yes/No' shall be inserted;

3. in Form No. 1E – Permission to pay tax under Compounding Scheme;

(i) in the item 'Category' after the word and symbol 'Medicine /', the word 'Multi-level Marketing Entity' shall be inserted;

(ii) after the item 'Medicine Dealers' and the sub-items under it, a new item namely;

' Multi-level Marketing Entity

Permitted to compound Turnover of goods sold at the schedule rate applicable to the goods, of the maximum retail price of such goods'

shall be inserted;

Guidelines for the functioning of Multi-level Marketing Entities.

The Government of Kerala vide Circular read as paper 3rd above has formulated certain guidelines for the functioning of Multi-level Marketing Entities/Direct Sellers. The gist of the Government Circular is as follows:

I. Conditions for Multi-level Marketing/ Permissible Direct Selling: For making the Multi-level Marketing/ Direct Selling activities permissible within the State of Kerala, the following conditions are to be satisfied:

- (i). Every Multi-level Marketing/ Direct Selling Entity operating within the State should:
 - a) take out Registration under the Kerala General Sales Tax Act, 1963 / Kerala Value Added Tax Act, 2003 and the Income Tax Act.
 - b) take out Licenses as may be required as per the Laws of the State/Centre.
 - c) clearly state the nature of their business in the Partnership Deed or Memorandum of Association, as the case may be.
- (ii). The Multi-level Marketing/Direct Selling Entity should pay sales incentive to Direct Sellers at the agreed rate within the agreed period.
- (iii). The Multi-level Marketing/Direct Selling Entity should have an Official Website wherein the relevant details viz. Names and Identification numbers of their authorized Direct Sellers and provisions for registering complaints by the consumers shall clearly be stated.
- (iv). The Multi-level Marketing/Direct Selling Entity should have a Consumer Grievance Cell that should ensure redressal of consumer grievances within seven days from the date of making such complaints.

II. Appointment/Authorisation of Direct Sellers: While appointing or authorising the Direct Sellers, the Multi-level Marketing/ Direct Selling Entity should conform to the following procedure:

- i). Appointment/authorisation of Direct Seller should be upon receipt of application form in prescribed format. The application form should contain the details of the person applying to become a Direct Seller and an undertaking to the effect that he has understood the nature of business and the terms and conditions of the direct selling. Only after satisfying the correctness and genuineness of the details given in the application form with supporting evidences, he/ she should be appointed as a Direct Seller.
- ii). No application should be considered unless such applicant is eligible to enter into a contract under the Indian Contract Act, 1872.
- iii). An agreement recording terms of the appointment as Direct Seller should be executed between the Multi-level Marketing/Direct Selling Entity and the Direct Seller.
- iv). Each Direct Seller should be allotted a Unique Identification Number before granting license/permission to start Direct Selling and be given with an Identity Card.
- v). No incentive should be paid to any person either for canvassing any person for becoming a Direct Seller or for joining as a Direct Seller.
- vi). The Multi-level Marketing/Direct sellers should undergo training on the do's and don'ts of direct marketing in an approved institution by the Government such as Gulati Institute of Finance and Taxation (GIFT), Sreekaryam, Thiruvananthapuram.
- vii). Each Direct seller should take out registration under the Kerala Value Added Tax Act, 2003, if the Multi-level Marketing Entity is not opting for payment of tax under compounded system envisaged in the Act. If the Multi-level Marketing Entity has opted for paying the tax at the first point of sale on Maximum Retail Price, the subsequent dealers including direct sellers need not take out registration nor pay any Value Added Tax.

III. Activities Prohibited:

- i). No Multi-level Marketing/Direct Selling Entity or Direct Seller should indulge in any Money Circulation Scheme or do any activity barred by the Prize Chits and Money Circulation

Schemes (Banning) Act, 1978 (Money Circulation means any scheme, by whatever name called, for the making of quick or easy money, or for the receipt of any money or valuable thing as the consideration for a promise to pay money, on any event or contingency relative or applicable to the enrolment of members into the scheme, whether or not such money or thing is derived from the entrance money of the members of such scheme or periodical subscriptions).

- (ii). No Multi-level Marketing/Direct Selling Entity should pay any incentive, by whatever name called, to any person or Direct Seller except the incentive related to the volume of sales of goods or services effected by them.
- (iii). Neither the Multi-level Marketing/Direct Selling Entity nor the Direct Sellers should supply or sell goods which are of inferior quality or have exceeded its validity/usage period.
- (iv). No Multi-level Marketing/Direct Selling Entity or Direct Seller should carry out any money circulation business or Pyramid Scheme for making fast money.
- (v). No Multi-level Marketing/Direct Selling Entity should create chain of customers as the long and unbroken chain would amount to Pyramid Scheme and should be construed to be attempting for making quick or easy money.
- (vi). No Multi-level Marketing/Direct Selling Entity or Direct Seller should be selling goods that does not give value for the money the buyer pays.
- (vii). No Multi-level Marketing/Direct Selling Entity or Direct Seller should collect any Service Charge, while selling goods.
- (viii). Should not commit any act or acts that are punishable under Indian Penal Code.
- (ix). Should not commit any act or acts in violation of the provisions of Indian Contract Act, 1872.
- (x). Should not do any act or acts in violation of the provisions of the Consumer Protection Act, 1986.

IV. General Conditions:

- (i). The Maximum Retail Price of all goods sold by the Multi-level Marketing/Direct Selling Entity or Direct Seller should be visibly displayed on the package/carton/cover of the goods.
- (ii). Goods sold by the Multi-level Marketing/Direct Selling Entity or Direct Seller should carry Guarantee/Warranty of the manufacturer.
- (iii). Multi-level Marketing/Direct Selling Entity should give the consumer the opportunity to exchange/return the goods sold to him if he finds any manufacturing defect or the product purchased is not useful for the purpose it was meant, within thirty days from the date of purchase, provided any seal/protection on the product is kept unbroken.
- (iv). Accounts of individual Direct Sellers shall be maintained properly and should be made available through Web.

V. Maintenance of Records:

Direct Selling Entity/ Company should maintain the following records:

- I. Memorandum of Association, Articles of Association and Certificate of Registration issued by the Registrar of Companies.
- II. Copies of TIN, DIN of Directors, TAN and PAN; In the case of a Partnership - Partnership Deed duly registered.

- III. Registration Certificates taken out under the Kerala General Sales Tax Act, 1963/ Kerala Value Added Tax Act, 2003, Chapter V of the Finance Act - 1994, and Central Sales Tax Act, 1956.
- IV. Copies of Sales Tax / Value Added Tax Returns, Service Tax Returns, Income Tax Returns filed before the authorities concerned during the previous three financial years.
- V. Copies of the Statements of Income Tax Deducted at Source.
- VI. Register containing the details of all Direct Sellers within the State.
- VII. KYC/KBDS (Know Your Customer/Know Your Direct Sellers) as a mandatory process.

VI. Grievance Redressal Mechanism: Every Multi-level Marketing/Direct Selling Entity must have a Complaint Redressal Forum to address the problems of their customers/Direct Sellers effectively. Details of such Forum should be made readily available on the website of the Multi-level Marketing/Direct Selling Entity.

VII. Breach of Guidelines: The Multi-level Marketing/Direct Selling Entities and the Direct Sellers have to follow the above guidelines meticulously. Multi-level Marketing/Direct Selling activity in violation of the guidelines shall be dealt appropriately by the Law Enforcement agencies under the provisions of the appropriate Act such as Prize Chits and Money Circulation Schemes (Banning) Act, 1978, Indian Penal Code, Consumer Protection Act etc.

All assessing authorities are hereby directed to verify and satisfy themselves that the Multi-level Marketing / Direct Selling entity has complied with the above said Guidelines before granting Registration to such entities. Also an affidavit has to be obtained stating that they are complying with the guidelines.

The Circular No. 5/2011 read as 1st paper above stands modified to the above extent.

COMMISSIONER

To,

All concerned
AC ITMC – for information and further necessary action.

F3.35194/15

Office of the Commissioner of
Commercial Taxes
Tax Tower, Karamana
Thiruvananthapuram
Dated 11/11/2015

Circular No.27/2015

Sub:- CTD – KVAT Act and Rules – Decision of Hon'ble High Court of Kerala – Observance of natural justice – reg:-

Ref: Judgment in WP(C) No.30187/2015 dtd 9.10.2015 of the Hon'ble High Court of Kerala

It has come to the notice that certain assessing authorities are completing the assessments without giving reasonable opportunity to the dealer to file replies to the notices and also denying opportunity of personal hearing which is highly irregular and amounts to violation of principles of natural justice. Such assessments are found to be not legally sustainable in appeals. While finalising assessments the dealers have to be provided with reasonable time to file objections to the notices issued, if any, and also have to be given opportunity of being heard in person, if they so desire. The rule of natural justice will be violated in substance and content if reasonable opportunity is not afforded. Denial of the aforesaid requirements tantamounts to violation of natural justice, which naturally calls for interference by appellate authorities, thereby the very purpose of completing assessment will be defeated.

While disposing the WP(C) No.30189/15 filed by Shamon.K.S., the Hon'ble High Court of Kerala observed that the assessing authority after serving notice to the dealer intimating him of the proposal to complete the assessment on best judgement basis, the assessing authority passed order on the very next day without giving the dealer an opportunity of hearing thereby rendering the purpose of the notice meaningless. It is a clear violation of natural justice and hence quashed the orders. In the concluding part of the judgment the Court observed as follows :-

“ Before parting with this case, it would be useful to remind the revenue authorities in the State that the taxman is today an abhorred person and , perhaps , for a valid reason. He is often seen as a person who arrives, armed with the authority of law, to take money away from a person who has it. The animosity against taxes is a shared one and the oft-quoted expression by Benjamin Franklin that “ in this world nothing can be said to

be certain, except death and taxes” echoes the sentiments that successive generations of people have harboured against taxes. This state of affairs must change, for an honest, fair and efficient tax administration can bring about a substantial decline in litigation in this area of law and ensure happiness matching utilitarian expectations”.

As per the KVAT Act and Rules, when assessment is completed on best judgement basis under sections 22,23,24 read with Rules 34,35 & 38, the assessing authority may serve a notice to the dealer calling upon him to produce the books of accounts to prove his turnover and tax liability at a place and time as specified in the notice. If the dealer fails to prove the correctness of the turnover, 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.

In the circumstances, all the authorities concerned are hereby directed to strictly comply with the procedural requirements incidental to completion of assessment and penalty in order to avoid violation of principles of natural justice.


Commissioner

ITMC-33121/10/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana - P.O.
Thiruvananthapuram 695002
Dtd.09/ 11 / 2015

CIRCULAR No.28/ 2015

Sub:- Registration under KVAT Act - Details of PAN – reg.

As per S.R.O.No.545/2015, PAN Card, issued by the Income Tax Department has been made mandatory for registration under KVAT Act. It is a prerequisite for the smooth transition to Goods and Service Tax regime also.

It is noticed that many of the Government Departments, Public Sector Undertakings, Autonomous Bodies who have taken registration under KVAT Act, 2003 do not possess a valid PAN to match their registration status under the Act. This has resulted in blocking of electronic service facilities including check post transactions / returns / tax payment extended by the department through KVATIS.

To continue uninterrupted and hassle-free e-Service facilities, and to avert penal consequences provided under the Act, all Government Departments (whether of the State, Centre or of Union Territory), Public Sector Undertakings and Autonomous Bodies are advised to provide the details of their PAN to the department not later than 30th November, 2015.


COMMISSIONER

No.ITMC/34277/15/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695002
Dtd.30 / 11 / 2015

CIRCULAR No.29 / 2015

Sub:- C.T.Dept. – Notice / Draft Orders issued by the Officers – Peer Review
Implementation – Instructions issued – reg.

Ref:- Minutes of the Meeting on Peer Review System held at the Chamber of
the CCT on 14-10-2015.

As a measure to bring in more transparency and accountability in tax administration, the Department intends to introduce "peer review system". This system will entail evaluation of notices/ orders issued by an officer, by officers of the same competence. Such notices / orders issued by the officers relating to assessments and penalties will be uploaded to the intranet system, for other officers to view and comment on the same.

Apart from increasing transparency, such a system:-

- (i) Ensure uniformity across the State and see that adequate safeguards are applied.
- (ii) Suggestions from the peer group help the assessing officer to make up the shortcomings and to include the components left out.
- (iii) Mechanism will improve the quality of the assessment order.
- (iv) Reduce possibilities of litigations against the order, especially arbitrariness and resultant harassments.
- (v) Helps in timely realization of revenue due to Government.

Moreover the system forms knowledge repository of the Department in the long run and facilitates capacity building also. In the circumstances, the following directions are issued .

01. The notices issued by the assessing authorities under various Acts administered by the department shall be uploaded in the intranet for peer review.
02. Before forwarding draft assessment orders, the assessing officers shall upload the draft order also for the peer review.
03. Draft orders of all assessing authorities shall be published in intranet so that all the employees of the Department could view it and make suggestions / remarks to improve the quality of the proceedings.
04. The authority who publishes the Draft orders shall wait for 7 days before issuing the final order on the 8th day.
05. The peer review method shall be implemented by adding a new peer review module in KVATIS.


COMMISSIONER


30/11/15

J3.40520/15/CT

Office of the Commissioner
Commercial Taxes
Thiruvananthapuram
Dated 03/12/2015

Circular No. 30/2015

Sub:- CTD - KVAT Act & Rules – condonation of delay in filing the appeals and observation of the Hon'ble High Court of Kerala-reg:

Ref:- Order in OP (Taxes) Nos. 01/15, 2/15, 4/15 to 8/15 dtd 16.10.2015 of the Hon'ble High Court of Kerala.

While considering the appeal filed by the State against the dismissal of delay petitions filed before the Tribunal, the Hon'ble High Court heard the matter and passed an interim order dated 16.10.2015 with the observation that “ we are sure that the learned Tribunal cannot be criticised of having taken the pain of writing an order with reference to precedent law to show that the applications seeking condonation of delay were so superfluous and did not contain any material worth acceptance and had not shown cause much less any sufficient cause for condonation of delay. We have gone through the affidavit filed before the Tribunal in all these cases. Primarily, they show that they were prepared in a mechanical manner as if the Tribunal had to find out its reasons to condone the delay. The Tribunal was justified in penning the impugned orders in the manner in which it has done, since such orders by the Tribunal would really send a word of caution to those in the Department who deal with public revenue to be more cautious in such matters. In the casual manner in which affidavit and pleadings are placed by persons dealing with Government matters; more importantly, those dealing with public funds and exchequer including the public revenue; ought to be cautious to the exceptional extent, which is expected from them in view of the duties and responsibilities attached to such Government offices”.

As per the provisions of the KVAT Act the time limit prescribed for filing second appeals before the Tribunal is within 60 days from the date of receipt of the first appellate order from the Deputy Commissioner (Appeals) and appeal before the Hon'ble High Court is within 90 days from the date of receipt of the Tribunal decision. Instructions were already issued in this matter but the lower authorities are not cared to comply the directions issued properly.

In the above order the Hon'ble High Court seriously criticised that the Department had miserably failed to give any acceptable and cogent reasons sufficient to condone delay in filing 2nd appeal. The careless and irresponsible attitude of the officers in filing application for condonation of delay should not deprive the revenue of the State and there by the very purpose of the assessment completed will be defeated.

In the circumstances all the concerned officers are directed to ensure that the second appeals before the Tribunal and the appeals before the Hon'ble High Court should be filed within the time limit prescribed as per the provisions of the KVAT Act . Laxity if any in this regard will be viewed seriously and the assessing authority and the controlling officers will be held responsible for the lapse. All the controlling officers shall verify the register of appellate orders once in a month during their visit to the Sub Offices and to ensure that timely action has taken in all appellate orders properly.

All controlling officers shall see that the above directions are strictly complied with by all officers under their jurisdiction and forward a monthly report along with the monthly diary to this office.

Sd/-
COMMISSIONER

To

All Deputy Commissioners/ Deputy Commissioner (Int.)/ Law Officers.

J3/40520/15/CT

Office of the Commissioner,
Commercial Taxes, Tax Towers,
Karamana.P.O. Thiruvananthapuram.
Dated: 07.12.2015.

Circular No. 31 /2015

Sub:- CTD-KVAT Act & Rules – condonation of delay in filing the appeals and observation of the Hon'ble High Court of Kerala-reg:

Ref:-1. Order in OP (Taxes) Nos. 01/15, 2/15, 4/15 to 8/15 dtd 16.10.2015 of the Hon'ble High Court of Kerala.

2. Circular No. 30/2015 dated 3/12/2015

As per the Circular issued read second above directions were issued to all concerned officers to ensure that second appeal before the Hon'ble Tribunal and the appeals or revision before the Hon'ble High Court should be filed within the time limit prescribed as per the provisions of KVAT Act 2003. It is further instructed if the second appeals before the Hon'ble Tribunal or appeals or revision before the Hon'ble High Court are filed with delay condonation petitions, the affidavits and petitions shall contain sufficient cause for the delay and the delay should be properly explained.

This direction form part of the directions already issued as per the Circular read above. All controlling officers shall see that the above directions are strictly complied with by all officers under their jurisdiction.

Sd/-
COMMISSIONER

To

All Deputy Commissioners/ Deputy Commissioner (Int.)/ Law Officers.

നം. എ9- 30230/15/വറ.നി.

റാണിജ്യനികുതി കമ്മീഷണറുടെ കാര്യാലയം,
ട്രാക്സ് ടവർ, കരമന, തിരുവനന്തപുരം.
തീയതി: 11/12/2015.

പരിപത്രം നം.32/2015

വിഷയം: നികുതി ഒടുക്കുന്നതിലെ സുതാര്യത ഉറപ്പാക്കുന്നതിനുവേണ്ടി ബിൽ സമ്പ്രദായം പ്രോത്സാഹിപ്പിക്കുന്നത് - 2015 ഡിസംബർ, 2016 ജനുവരി മാസങ്ങൾ ബിൽ സമ്പ്രദായ അവബോധന യത്ന' മാസങ്ങളായി ആചരിക്കുന്നത് - നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നത് - സംബന്ധിച്ച്

ഖജനാറിലേക്ക് നികുതി അടയ്ക്കപ്പെടുന്നു എന്ന് ഉറപ്പാക്കുന്നതിനുള്ള മുഖ്യമാർഗ്ഗം ബിൽ സമ്പ്രദായം പ്രോത്സാഹിപ്പിക്കുക എന്നതാണ്. ഉപഭോക്താക്കളെ ബിൽ/ ഇൻവോയ്സ് എന്നിവ ചോദിച്ചുവാങ്ങുവാൻ പ്രോത്സാഹിപ്പിക്കേണ്ടതും ബിൽ/ഇൻവോയ്സ് എന്നിവ നൽകുവാനുള്ള തങ്ങളുടെ കർത്തവ്യത്തെപ്പറ്റി വ്യാപാരികളെ ബോധവൽകരിക്കേണ്ടതുമാണ്. ഉപഭോക്താവിൽ നിന്നും പിരിച്ചെടുക്കപ്പെടുന്ന നികുതി കൃത്യമായി ബിൽ ചെയ്യപ്പെടുന്നുവെന്നും കണക്കിലുൾപ്പെടുത്തി സംബന്ധ ഖജനാറിലേക്ക് അടയ്ക്കുന്നുണ്ട് എന്നും ഉറപ്പാക്കേണ്ടത് റാണിജ്യനികുതി വകുപ്പാണ്.

ഈ സാമൂഹിക ഉദ്ദേശത്തിന്റെ ഹലപ്രാപ്തിയിലേക്കായി നവമുഖ്യങ്ങളായ വാട്ട്സ് ആപ്പ്, ഫെയ്സ് ബുക്ക്, ഇ-മെയിൽ എന്നിവ മുഖേന ബിൽ/ ഇൻവോയ്സ് എന്നിവ അപ് ലോഡ് ചെയ്യുന്നതിന് ഉപഭോക്താക്കൾക്ക് അവസരം നൽകുന്ന ഒരു നൂതനപദ്ധതി വകുപ്പ് തുടങ്ങിയിട്ടുണ്ട്. ഇതിലൂടെ അവർ ഒടുക്കുന്ന നികുതി സർക്കാരിലേക്ക് അടയ്ക്കപ്പെടുന്നുവെന്ന് ഉറപ്പാക്കുവാൻ സാധിക്കും.

പൊതുജനങ്ങളിൽ നിന്നും ഇതിന് ലഭിച്ച പ്രതികരണം കണക്കിലെടുത്ത് ബിൽ സമ്പ്രദായത്തെ പ്രോത്സാഹിപ്പിക്കുന്നതിന് സഹായകരമായ രീതിയിൽ റാണിജ്യനികുതി വകുപ്പ് ജീവനക്കാരുേയും കൂടി ഈ ഉദ്യമത്തിൽ പങ്കാളികളാക്കുവാൻ തീരുമാനിച്ചിട്ടുണ്ട്.

ഇതിലേക്കായി 2015 ഡിസംബർ, 2016 ജനുവരി മാസങ്ങൾ ബിൽ സമ്പ്രദായ അവബോധന യത്ന' മാസങ്ങളായി ആചരിക്കുവാൻ

തീരുമാനിച്ചിരിക്കുന്നു. പാർട്ടി ടൈം സ്വീപ്പർമാർ, ദിവസവേതനാടിസ്ഥാനത്തിൽ സേവനമനുഷ്ഠിക്കുന്നവർ എന്നിവർ ഉൾപ്പെടെയുള്ള എല്ലാ ജീവനക്കാരും പരമാവധി ബിൽ/ ഇൻവോയ്സ് ശേഖരിക്കേണ്ടതാണ്. ഡെപ്യൂട്ടി കമ്മീഷണറുടെ കാര്യാലയത്തിൽ ഒരു രജിസ്റ്റർ സൂക്ഷിക്കുകയും അതിൽ ഇത്ര ബിൽ/ ഇൻവോയ്സിന്റെ വിശദാംശങ്ങൾ, ബിൽ ശേഖരിച്ച ജീവനക്കാരന്റെ പേരുവിവരം എന്നിവ രേഖപ്പെടുത്തേണ്ടതാണ്. ജീവനക്കാരന്റെ പേരുവിവരം രഹസ്യമായി സൂക്ഷിക്കുന്നതാണ്. ബില്ലുകൾ സമർപ്പിച്ച ജീവനക്കാരിൽ നിന്നും മികച്ച സംഭാവന നൽകിയ മൂന്നു ജീവനക്കാരെ തിരഞ്ഞെടുത്ത് ജില്ലാതലത്തിൽ ഒരു ചടങ്ങ് നടത്തി ആദരിക്കും. കൂടാതെ സംസ്ഥാനതലത്തിൽ മികച്ച മൂന്ന് ജില്ലകളേയും 5 ജീവനക്കാരേയും തിരഞ്ഞെടുത്ത് സംസ്ഥാനതല യോഗം നടത്തി കമ്മീഷണർ ആദരിക്കും.

ഇന്റലിജൻസ് വിഭാഗം ഇൻസ്പെക്ടിങ് അസി. കമ്മീഷണർമാർ ഇങ്ങനെ ലഭിക്കുന്ന ബില്ലുകൾ പരിശോധിക്കേണ്ടതും ആഴ്ചയിൽ കുറഞ്ഞത് ഒരു കേസെങ്കിലും തിരഞ്ഞെടുത്ത് ഇൻസ്പെക്ഷൻ നടത്തേണ്ടതുമാണ്. ബാക്കിയുള്ള ഇൻവോയ്സ്/ ബിൽ എന്നിവ ബന്ധപ്പെട്ട നികുതി നിർണ്ണയാധികാരിക്ക് പരിശോധനയ്ക്കായി അയച്ചുകൊടുക്കേണ്ടതാണ്.

ഡെപ്യൂട്ടി കമ്മീഷണറുടെ കാര്യാലയത്തിൽ ലഭിച്ച ബില്ലുകൾ, അതിന്മേലുള്ള തുടർനടപടി എന്നിവ രേഖപ്പെടുത്തുന്നതിന് ഒരു രജിസ്റ്റർ സൂക്ഷിക്കേണ്ടതും ഓരോ മാസവും ഇത് സംബന്ധിച്ച വിശദാംശങ്ങൾ വാണിജ്യനികുതി കമ്മീഷണറുടെ കാര്യാലയത്തിലെ സ്ഥിതിവിവരക്കണക്ക് വിഭാഗത്തിനെ അറിയിക്കേണ്ടതുമാണ്.


കമ്മീഷണർ

No.B3.39785/06/CT

Office of the Commissioner
Commercial Taxes
Tax Tower, Karamana
Thiruvananthapuram
Dated.14..01..2016

CIRCULAR. No. 01/2016

Sub:- CT Dept. Functioning of weight bridge at CTCP on BOO basis-
Retendering - reg:

Ref:- Nil

So many issues are noticed with the concessionaire regarding the functioning of weigh bridges at various check post on BOO basis. When steps are taken against any such issues, the matter will be referred to the Arbitrator for disposal. This raises apprehension above the matter and leads to loss of public money.

In order to prevent the possible loss to Government on this account the following guidelines are issued.

1. While entering into a contract/agreement with the concessionaire the "Arbitration Clause" need not be included in future.
2. All draft contract agreements in future will be vetted by the undersigned depending on value by the Government.

Commissioner

C2/22421/2008/CT

Office of the Commissioner
Commercial Taxes,
Thiruvananthapuram
Dtd: 18/02/2016

CIRCULAR NO. 2/16

Sub: - Commercial Taxes Department – Price fixation of Imported Timber
- Circular No. 25/2015 has withdrawn – further instructions issued
- reg.

Read: - 1) Circular No. 25/2015 dated 11/11/2015
2) Letter No. C2 – 22421/08/CT dated 17/11/2015
3) Order no. C2/22421/08/CT dated 28.03.2011 of the
Commissioner of Commercial Taxes
4) Report No. DC (I) K4 1268/15 dated 22/01/2016 of Deputy
Commissioner (Intelligence), Kozhikode.

As per the Circulars read above, floor rates in respect of imported timber varieties were fixed for the purpose of collection of Advance tax /Security Deposit and later it was withdrawn vide paper read 2nd due to certain discrepancies pointed out by All Kerala Timber Importers Association. The Expert Committee for fixing floor rate of timber, constituted vide paper read 4th above consisting of the three Zonal Deputy Commissioners (Intelligence) and Deputy Commissioners of Thiruvananthapuram, Kollam, Palakkad and Kozhikode, held a meeting on 14/12/2016 to study the anomalies pointed out in fixing the floor rate of timber vide Circular No. 25/2015. Various representatives from timber business sector also attended the meeting and their grievances and contentions were heard.

The committee analyzed the market intelligence, anomalies in the earlier Circular and submitted their report after considering the recommendations from the timber traders vide paper read 4th above.

From the facts evolved from the deliberations, it is seen than the modification in the floor rates fixed is imminent. So, considering the recommendations of the Committee and in the interest of revenue, the floor rates of imported timber fixed as per circular referred 1st above is modified as

under for the purpose of collection of Advance Tax as per section 47(16A) of the Kerala Value Added Tax Act, 2003.

Type	Floor rate per cubic feet (in Rs.)
Pincoda	1145
Purple Heart(violet)	975
Green Heart	975
Mora/Cibida/Kabukali	700
Padak	1290
Kussia	1075
Sal	1075
Beachwood/ Ashwood	1145
Imported Teak logs having girth below 125cm other than Burma Teak	1250
Imported Teak logs having girth 125cm and above other than Burma Teak	2310
Burma teak	2525

The girth of the logs in the vehicle should be marked and corresponding entry should be made with measurement slip accompanying the bill of entry. If the document required to prove that the girth of teak log is less than 125cm is not produced at the Commercial Tax Check post, Advance Tax shall be collected @ Rs. 2310/- per cubic feet.

This order will take effect from 01/03/2016


COMMISSIONER

Copy to: All concerned

No.A5-23916/12/CT

Office of the Commissioner
Commercial Taxes Dept.,
Tax Towers, Killippalam,
Karamana.P.O,
Thiruvananthapuram.
Dated: 11.03.2016.

CIRCULAR NO.3/2016

Sub:- CTD – Surprise check conducted by the Vigilance and Anti
Corruption Bureau at the Commercial Tax offices –
instructions received from Government for maintaining
personal cash declaration register – directions issued – reg.

Ref:- Govt. letter No.TAXES-D2/16/2015-TAXES dated 20.01.2016 of
Taxes (D) Department, Thiruvananthapuram.

On the basis of the surprise check conducted by the Vigilance and
Anti Corruption Bureau in the Commercial Tax offices, Government reported
that non-declaration of personal cash in the personal cash declaration
register is a common phenomenon and numerous cases are coming before
the Government for taking action based on Vigilance surprise check. In the
circumstances Government have directed to issue the following instructions
to the subordinate offices under the control of this office.

“All the offices coming under the control of this office should maintain
personal cash declaration register promptly and stringent action will
be taken against the officers who had failed to comply the same”.

The controlling officers are directed to communicate the Government
direction to the subordinate offices for urgent compliance and furnish action
taken report in this regard.


COMMISSIONER

Copy to:- All Deputy Commissioners/ Deputy Commissioners (Intelligence)/
Deputy Commissioners (Appeals) for information and compliance.
Copy to:- Superintendent – A Section for information and necessary action.
Copy to:- File/Stock File.

No.C1-10178/16/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695002
Dtd.29-04-2016

CIRCULAR No.04/2016

Sub:- Renewal of registration – Insistence on producing photographs –
Instruction issued – reg.

As per the statutory provision, the certificate of registration is valid for an year and it has to be renewed every year on payment of the fee prescribed.

Now, in the e-platform the dealers are provided with the online facility in KVATIS for registration, renewal of registration, e-Payment etc.

After online renewal of registration, in the KVATIS the status regarding 'registration' in respect of the dealer would be shown "active" and from this the officer concerned can identify that the dealer has already renewed his registration. Moreover, the dealer can generate e-Chalan for the payment made renewal of registration, which he could keep as a proof for the renewal effected.

In this scenario, since electronic records are available evidencing renewal of registration, only for those who need a fresh physical copy, photographs need be insisted for affixing in the certificate. For others, if there is no change of constitution in the registration certificate already issued, renewal can be authenticated by the registering authority after obtaining the renewal fees.


COMMISSIONER

No.C1-14373/16/CT

Office of the Commissioner of
Commercial Taxes
Tax Tower, 8th Floor
Karamana,
Thiruvananthapuram
Dtd.02 / 05 / 2016

CIRCULAR No.05 / 2016

Sub:- Commercial Taxes – KVAT Act, 2003 – Last date for filing option for payment of compounded tax – Instruction issued – reg.

Taking into account the request from various trade bodies and dealers, the last date for filing option for the payment of compounded tax under Section 8 of the Kerala Value Added Tax Act, 2003 and Section 7 of Kerala General Sales Tax Act, for the financial year 2016-17 is extended upto 31st May, 2016.


COMMISSIONER

No.C1-17064/16/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O
Thiruvananthapuram 695002
Dtd.01-06-2016

CIRCULAR No.06 / 2016

Sub: - KVAT Act, 2003 – Last date for filing of Annual Return for the
year 2015-16 – Extended – reg.

Considering the request from the various trade bodies, associations
and dealers, the last date for filing Annual Return and enclosures for the
year 2015-16 under Kerala Value Added Tax Act is extended upto 31st July,
2016. No further extension will be granted.

All assessing authorities shall take note of the above position.

Sd/-
COMMISSIONER

To

All concerned.

No.C1-11318/12/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695002
Dtd. 31 / 05 / 2016

CIRCULAR No. 07 / 2016

Sub:- KVAT Act, 2003 – Granting of registration to dealers in plywood, glass, veneer and packing materials – Modified instruction – Issued – reg.

Ref:- Circular No.52/2007.

At present, as per Circular No.52/2007, while processing registration application of dealers in plywood, glass and veneers, an enquiry by the Intelligence Wing of the Department is insisted only in case where the nativity certificate produced by the applicant relates to a place outside the jurisdiction of the registering authority.

The Intelligence Wing of the Department has detected cases of benami registration obtained by plywood dealers with a view to evade tax. Hence, in all cases regardless of the fact that nativity certificate produced by the applicant relates to a place within the jurisdiction of assessing authority or not, an enquiry by the Intelligence Wing of the Department is found imperative to ensure that new registrations are granted only to genuine dealers. In the circumstances, to safeguard revenue and to prevent dealers from obtaining bogus / benami registration, the following direction is issued for strict compliance.

In all cases, irrespective of the fact that the nativity certificate produced by the applicant relates to a place within the jurisdiction or outside the jurisdiction of the registering authority, all new registration of business places dealing in plywood, glass and veneers shall be granted after conducting necessary enquiry through the Inspecting Asst. Commissioner (Intelligence) concerned. If any surety is made in the Form No.6 bond, their genuineness also has to be enquired into by the Intelligence Wing.

Circular No.52/2007 stands modified to the above extent.


COMMISSIONER

No. E1-23012/16/CT.

Office of the Commissioner,
Commercial Taxes,
Thiruvananthapuram,
Dated : 19.07.2016.

Circular No. 08 /2016

Sub:- Speedy Settlement of Audit Objections – Standing instructions – Re-issued -

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During the section meeting held on 14.07.2016, by the Commissioner of Commercial Taxes, it came to notice that several officers are not fully aware of the procedure to be followed for dealing with settlement of audit objections in inspection reports from the Accountant General's office. In the circumstances the following instructions are issued to all the officers concerned for strict adherence.

1. The officers shall examine the defects pointed out by AG with reference to the relevant assessment records and ascertain the sustainability of defects. If the defect pointed out is sustainable appropriate action shall be initiated to set right the short levy pointed out. The assessing authorities shall complete the assessment in such cases and collect the demand at the earliest. If assessment is completed in line with the AG's query, furnish the assessment details in the reply such as order No., date, addl. demand created, if any, collection thereon, the amount collected with chalan No./date etc.
2. If for any reason addl. demand created is less than the short levy pointed out in the audit, furnish the reason for the same.
3. If the defect pointed out is not sustainable a detailed discussion or opinion from next higher authority is very necessary before furnishing the reply. The reply shall be approved by the controlling officer in such cases and furnish the factual report with the proof of evidence if needed.
4. Reply to audit enquiry/audit objection shall be furnished to the audit party before the conclusion of the audit in that office. If more time is required for furnishing reply, an interim reply shall be given with detailed remarks as to the action taken/reasons relied on.
5. In case of sustainable defects pointed out, the officers shall identify similar defects in the same file for subsequent & previous years and take action simultaneously.
6. The officers shall identify similar defects in similar files and take appropriate action so that recurring defects can be avoided.
7. Reply should contain LAR para No., assessee's name, assessment year, defect in brief and then answer to the query.
8. If the reply furnished by the auditee officer to the Accountant General is not convincing and the AG has included that defect in the LAR, further reply to AG shall be furnished through their controlling officers, marking a copy to Joint Commissioner (A&I) without any delay.

9. The controlling officer shall examine the defects carefully with statutory provisions, circulars, notifications, judgment etc and ensure that the reply furnished is correct as per law and approve the same.
10. It is the duty of the controlling officers (Inspecting Assistant Commissioners and Deputy Commissioners) to ensure that proper action has been taken by the assessing authorities to settle the defects without any delay.
11. An action taken statement shall be forwarded to CCT every month on pending LAR paras.
12. The time limit for furnishing first reply to LAR paras is 4 weeks from the date of receipt of LAR, and time limit shall be strictly adhered to.
13. It shall be the primary responsibility of the officers in charge of the file for ensuring prompt attention to the audit objections. The controlling officers shall be responsible to keep a close watch on the clearance of all audit objections in the inspection reports under their jurisdiction.
14. The Deputy Commissioner shall examine the sustainability of audit objection in detail and take suitable remedial measures immediately. The Deputy Commissioners shall also examine whether the irregularity committed was due to the negligence/lapse on the part of the officer and shall report the same to the CCT for taking disciplinary action.

Sd/-
COMMISSIONER

To
All concerned.

// Approved for issue //


Joint Commissioner (A&I)

No. C1-1880/2016/CT

Office of the Commissioner,
Commercial Taxes, Kerala,
9th Floor, Tax Towers,
Killipalam, Karamana P.O,
Thiruvananthapuram.
PIN – 695 002.
Dated: 25/7/2016.

CIRCULAR No. 9/2016.

Sub: KVAT Act, 2003 – Check list for processing refund applications – Instructions –
Reg.

The Commissionerate has noticed that there are some gaps in the present system of refund process. Some of the assessing authorities are not checking or cross verifying certain essential points before allowing refund.

A preliminary scrutiny is highly necessary before granting refund. However such scrutiny or verification of records should not cause any delay in allowing refund.

The refund application shall be processed within the time limit specified in the Right to Services Act, 2012.

To confirm that the preliminary scrutiny has been completed in refund files, the assessing authority shall prepare a check list in the following Proforma:

Check list for Refund processing

No	Particulars	Check Tick	No	Particulars	Check Tick
1	KVATIS-Build from others Sales		16	Interstate Sales – C forms	
2	KVATIS-Build from others Purchases		17	Stock transfer out – F forms & Proof	
3	KVATIS-CTCP,8FA,Parcels for purchase		18	Stock transfer out – KVATIS CTCP data	
4	KVATIS-CTCP, Parcels for IS Sales		19	Advance tax – CTCP KVATIS	
5	Sale at concessional rates – Forms		20	Closing stock – Analysis (OS+P-CoGS)	
6	Crime files		21	Closing stock Valuation – Random	
7	OR Files		22	Closing stock –Increase/Decrease	
8	LAR in previous 3 years		23	ITC – KVATIS BFO sales	
9	Internal audit in previous 3 years		24	Exemptions – Proof	
10	Data Mining Report		25	Export – Proof	
11	Growth/Fall in tax payment		26	Deemed Export – Form H & Proof	
12	Growth/Fall in taxable turnover		27	Growth/Fall in total turnover	
13	Special rebate		28	ITC Capital goods	
14	Other credits – Summary of Return		29	Dues/Arrear if any	
15	Tax credit - Credit notes		30	Others	

The assessing authority of ordinary circle offices shall submit refund file with above check list duly signed by him for approval to the Inspecting Assistant Commissioner concerned, if the amount of refund is less than five lakhs rupees. The District Deputy Commissioner shall approve the refund order in case the refund is five lakhs rupees or more. Refund files of Special Circle shall also be approved by the District Deputy Commissioner irrespective of the amount of refund. Copies of all refund orders in excess of one lakh shall be marked and submitted to Deputy Commissioner (Internal Audit), Commissionerate of Commercial Taxes, Thiruvananthapuram along with all the details mentioned in the check list.

The instructions are to be complied with strictly.

Sd/-

COMMISSIONER

To

All concerned

No.C1-14373/2016/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695002
Dtd.28-07-2016

CIRCULAR No.10 / 2016

Sub:- Commercial Taxes – KTL Act, 1976 – Last date for filing option
for payment of compounded tax – Instruction issued – reg.

Taking into account the request from various trade bodies and
dealers, the last date for filing option for the payment of compounded tax
under Section 5A of Kerala Luxuries Tax Act, for the financial year 2016-17
is extended upto 31st July, 2016.

Sd/-
COMMISSIONER

No G3-35001/15/CT

Office of the Commissioner
 Commercial Taxes
 Thiruvananthapuram
 Dated: 30.07.2016

CIRCULAR NO. 11/2016

Sub: Confidential Records- Preparation of Performance appraisals of Government Servants working in Commercial Taxes Department- Preparation and Maintenance- Instructions issued.

- Ref:**
1. G.O (P) No. 344/66/PD dated 22.08.1966 of Public (Rules) Department
 2. G.O (P) No.234/74/PD dated 24.09.1974 of Public (Miscellaneous) Department
 3. Circular Memorandum No. 157069/M1/74/PD dated 03.01.1975
 4. Circular Memorandum No. 26406/M1/76/PD dated 13.03.1976
 5. Circular Memorandum No. 69265/M1/76/PD dated 08.07.1976
 6. Circular Memorandum No. 111246/M1/76/PD dated 15.10.1976
 7. Circular No. 14673/Adv.C2/98/P&ARD dated 17.10.1998
 8. Circular No. 3900/Adv.C2/2014/P&ARD dated 15.02.2014

Attention of all Reporting, Reviewing, Custodian and Reportee Officers of Confidential Reports in the Commercial Taxes Department is invited to the Government Orders and instructions issued vide Circulars/ Circular Memorandums cited above, regarding the preparation and maintenance of Confidential Reports of Government Servants. In spite of these instructions, it has come to the notice that adequate attention is not paid by the Reportee/ Reporting/ Reviewing Officers in the preparation of performance appraisals. It is noticed that several Reporting Officers are preparing the Confidential Reports only at a distant date and that too when the same is required to be placed before the Departmental Promotion Committee and hence the Departmental Promotion Committees could not be convened in time, in order to prepare the Select Lists of Officers. It is unfortunate that in spite of clear and detailed instructions issued by the Government and Department, Confidential Reports are not being properly prepared and maintained.

In para 1 of G.O (P) 344/66/PD dated 22.08.1966, Government have described the objects of preparing the Confidential Reports which are to achieve an objective assessments of the capacities of the individual Officer in the performance of his duties and to forecast his capacity for different and more responsible works and also aims at making the employee do his present job better, which is essential for increasing the general efficiency of administration. According to para 14 of the above Government Order, the Reporting Officer has to prepare and forward the Annual Confidential Reports on each of his subordinates by the first February of the succeeding year to which the report relates to.

It has come to the notice of this Office that the Confidential Reports are being forwarded to the Reportee Officer directly for noting, which results in showing Part II (Secret) of the Performance appraisal of the Reportee. It is also noticed that in certain cases the Confidential Reports are forwarded to the Commissionerate by the Reporting/ Reviewing Officers without showing them to the Reportees. This causes difficulty to this Office in preparing and sending correspondence with the Reporting/ Reviewing Officers. Often by that time, the Reporting/ Reviewing Officers might have left the service/place on superannuation/ transfer. To avoid such situations the Reporting / Reviewing Officers are directed to follow scrupulously the standing instructions in this regard and ensure that the Confidential Reports are shown to the Reportees in time.

There were certain instances where the Report was shown to the Reportees before the Reports were reviewed. This is not correct and is against the procedure laid down in G.O (P) 242 Public (Misc) dated 29.07.1968. It is also noticed that the receipts and despatch of the Confidential Reports are not properly monitored especially when the Reportee and the Reporting Officers are transferred to another stations. In such cases the availability of the Confidential Reports are seen verified only at the time when they are required in connection with the Departmental Promotion Committee.

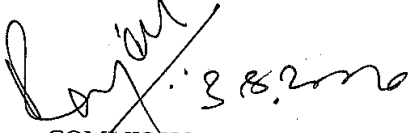
In order to ensure the promptness with regard to the maintenance and custody of the Confidential Reports and for the timely convening of Departmental Promotion Committee Meetings, following instructions are issued for strict compliance:

1. The report on Gazetted Officers should be recorded in Form-II (B) and the report on Non-Gazetted Officers should be recorded in Form – II (A).
2. The reports should cover the period from 1st January to 31st December of each year (Calendar Year) in case of all Officers in normal case. If any of the Reportee/ Reporting Officer/ Reviewing Officer is transferred in the middle of the Calendar year, it is the duty of the Reporting Officer to ensure that the Confidential Reports of all his subordinate Officers upto the period were prepared before the Officer concerned relieved.
3. All the Reportee Officers of the Confidential Reports are requested to furnish their self appraisals to the Reporting Officers for preparing the Performance appraisals before 15th January of the preceding Calendar Year. The Reporting Officer should prepare the Confidential Report in respect of the Reportee Officer and to forward the same to the Reviewing Officer before 30th of January. The Reviewing Officer should review the Confidential Reports received before 15th of February.
4. If any of the Reportee Officer fail to furnish their Self Appraisal as above, it is the duty of the Reporting Officer to prepare the Confidential Report of the said Officer based on the available details and to forward the same to the Reviewing Officer.
5. The Reporting Officers and the Reviewing Officers will in particular ensure that the period under report is noted promptly in the space provided and that their signatures are 'dated' in the forms for reporting/ reviewing.
6. The report should be written or typed by the Officer himself; if typewritten, the officer should certify that he typed the report by himself. The name of the Officer writing the report should be written in **block letters** below his signature. His designation should also be indicated. The Office Designation Stamp should also be affixed.
7. The name and designation of the officer reported upon must be given in full and in the same manner as shown in the Service Book.
8. The name and designation of the Reporting/Reviewing officer should be noted in Block Letters in the Confidential Report.
9. The Reporting Officers should write the Confidential Reports impartially and honestly taking in to account the Reported Officer's capability in work, punctuality, ability to supervise and control the staff working under him and the capacity to handle his subordinate in getting their duties discharged.

10. As far as possible, Reporting officers should try to advance specific instances or reasons to justify their observations.
11. All the Reporting and Reviewing Officers are instructed to ensure interalia that in all cases where five or more 'A' grades are assigned, specific noteworthy or outstanding work done by the officer should invariably be noted in the comments column. Conversely, where 'C' or 'D' grades are assigned, again specific instances of inadequate or below par performance should be noted as instructed by Government vide Circular cited as 8th above.
12. Expression of displeasure conveyed to an officer or orders regarding any disciplinary action should be recorded in the Confidential Reports quoting the number and date of order or other communications.
13. The Reporting/Reviewing Officers are directed to ensure that they show the Confidential Reports to the Reportee before the reports are forwarded to the Custodian Officers.
14. It shall not be competent for the Reporting Authority, the Reviewing Authority or the Accepting Authority, as the case may be, to write a Confidential Report;
 - (a) where the authority writing the Confidential Report is a Government servant after he retired from service; and
 - (b) in other cases, after he demits office.
15. All Deputy Commissioners should ensure that all officers due to retire should write up /review all the Confidential Reports that are due to be written up / reviewed by them before they actually retire. In cases where the Reporting Officers has not prepared the Confidential Reports during the relevant period and has demitted office, the Reviewing Officer or Accepting Authority who remains in office may write the Confidential Records of the Officers concerned and forward the same to the next higher Authority.
16. All Inspecting Officers shall, at the time of inspection of subordinate offices by them, verify the concerned records and satisfy themselves that the instructions contained in this circular had been complied with. For the effective implementation of the directions issued from time to time all concerned are directed that as provided in para 3 of Government order read as first paper above, the default on the part of the officer in the preparation and maintenance of the Confidential reports on his subordinates should be mentioned in the Confidential reports on the Reporting Officers as a point of failure in his duty.
17. All the Reportee Officers of the Confidential Reports are requested to furnish their self Appraisals for the period upto 31.12.2015 (if not furnished till date) to the Reporting Officers for preparing the Performance appraisals for the period up to 31-12-2015 on or before 31.08.2016.
18. All Deputy Commissioners should obtain a Certificate from all the Reporting/ Reviewing Officers under their administrative control to the effect that they have prepared / reviewed the entire Performance Appraisals in respect of their subordinates for the period ended upto 31.12.2015. After obtaining the said certificates, the Deputy Commissioners shall furnish a Certificate to the Commissionerate to the above effect.

19. A List showing the details of Reportee/ Reporting/ Reviewing Officers in the Department is attached as Annexure to this Circular.

The receipt of this Circular should be acknowledged.


COMMISSIONER

To
All concerned

ANNEXURE

SINo.	Designation	Reporting Authority	Reviewing Authority
1	Joint Commissioner-1/ General/ Law/A&I	Commissioner	Govt. Secretary (Taxes)
2	Deputy Commissioner (General)	Commissioner	Govt. Secretary (Taxes)
3	District Deputy Commissioners	Commissioner	Govt. Secretary (Taxes)
4	Deputy Commissioners (Intelligence)	Commissioner	Govt. Secretary (Taxes)
5	Deputy Commissioner (Law)	Commissioner	Govt. Secretary (Taxes)
6	Deputy Commissioners (Appeal)	Commissioner	Govt. Secretary (Taxes)
7	Deputy Commissioner (IA)	Commissioner	Govt. Secretary (Taxes)
8	Departmental Members (KVAT, AIT&ST AT)	Chairman, KVAT,AIT&ST AT	Govt. Secretary (Taxes)
9	Assistant Commissioner-1	Joint Commissioner-1	Commissioner
10	Assistant Commissioner-2	Joint Commissioner(General)	Commissioner
11	Assistant Commissioner(ITMC)	Joint Commissioner-1	Commissioner
12	Assistant Commissioner(A&I)	Joint Commissioner(A&I)	Commissioner
13	Assistant Commissioner(LW)	Joint Commissioner(Law)	Commissioner
14	Assistant Commissioners(EIW)	Joint Commissioner-G	Commissioner
15	Assistant Commissioner(CI Wing)	Joint Commissioner-1	Commissioner
16	Assistant Commissioners (IA)	Deputy Commissioner(IA)	Commissioner

17	Assistant Commissioner(Training)	Joint Commissioner-1	Commissioner
18	Assistant Commissioner(AA)	District Deputy Commissioner concerned	Commissioner
19	Assistant Commissioner (Assmt)	District Deputy Commissioner concerned	Commissioner
20	Assistant Commissioner (WC)	District Deputy Commissioner concerned	Commissioner
21	Assistant Commissioners(Law), Ekm	Deputy Commissioner(Law), Ekm	Commissioner
22	Inspecting Assistant Commissioners	District Deputy Commissioner concerned	Commissioner
23	Inspecting Assistant Commissioners(Intelligence)	Deputy Commissioner(Int) concerned	Commissioner
24	Inspecting Assistant Commissioners(IB)	Deputy Commissioner(Int) concerned	Commissioner
25	Inspecting Assistant Commissioner (Amaravila)	Deputy Commissioner, Tvm	Commissioner
26	Inspecting Assistant Commissioner (Walayar)	Deputy Commissioner, Palakkad	Commissioner
27	Inspecting Assistant Commissioner (Manjeswaram)	Deputy Commissioner, Kasaragod	Commissioner
28	Law Officers	District Deputy Commissioner concerned	Commissioner
29	Secretary, KVAT, AIT&ST AT, Ernakulam	Chairman, KVAT, AIT&ST AT	Commissioner
30	Senior Superintendents, O/o CCT	Assistant Commissioner concerned O/o CCT	Joint Commissioner concerned
31	CTO (IA)	Deputy Commissioner (IA)	Joint Commissioner-1
32	CTO(AA)	District Deputy Commissioner concerned	Joint Commissioner-1
33	CTO(EIW)	Deputy Commissioner (General)	Joint Commissioner-G
34	CTO (Data Mining)	Assistant Commissioner(ITMC)	Joint Commissioner-1

35	Manager, O/o Deputy Commissioner	District Deputy Commissioner concerned	Joint Commissioner-1
36	Manager, O/o Deputy Commissioner (Int.)	Deputy Commissioner(Int) concerned	Joint Commissioner-1
37	Manager, O/o Deputy Commissioner (Law)	Deputy Commissioner(Law)	Joint Commissioner- 1
38	CTO Enquiry	District Deputy Commissioner concerned	Joint Commissioner-1
39	CTO, Rapid Action	Deputy Commissioner(Int) concerned	Joint Commissioner-1
40	CTO (LT)	District Deputy Commissioner concerned	Joint Commissioner-1
41	CTO (WC)	District Deputy Commissioner concerned	Joint Commissioner-1
42	CTO (Assmt.Wing)	Inspecting Assistant Commissioner concerned	District Deputy Commissioner concerned
43	AIT & CTO	Inspecting Assistant Commissioner concerned	District Deputy Commissioner concerned
44	CTO s in Check Posts/ Facilitation Centres	Inspecting Assistant Commissioner in charge of the Check Post/ Facilitation Centre	District Deputy Commissioner concerned
45	Intelligence Officer, Intelligence Squad	Inspecting Assistant Commissioner (Int.) concerned	Deputy Commissioner(Int) concerned
46	Intelligence Officer(IB)	Inspecting Assistant Commissioner (IB)	Deputy Commissioner(Int) concerned
47	Assistant Secretary, KVAT, AIT & ST AT	Secretary, KVAT, AIT & ST AT, Ekm	Chairman, KVAT, AIT&ST AT
48	Additional Law Officers	Law Officer concerned	District Deputy Commissioner concerned
49	ACTO/JS/CTI, O/o CCT	Senior Superintendent concerned, O/o CCT	Assistant Commissioner concerned, O/o CCT
50	ACTO/JS/CTI, Finance Wing, O/o CCT	Finance Officer	Joint Commissioner-1
51	ACTO/JS/CTI, ITMC	Assistant Commissioner (ITMC)	Joint Commissioner-1

52	ACTO/JS/CTI, Data Mining	Assistant Commissioner (ITMC)	Joint Commissioner-1
53	ACTO/JS/CTI, EIW	Assistant Commissioner(EIW)	Joint Commissioner-1
54	ACTO/JS/CTI, Call Center	Assistant Commissioner (ITMC)	Joint Commissioner-1
55	ACTO/JS/CTI, O/o Deputy Commissioner	Manager, O/o concerned Deputy Commissioner	District Deputy Commissioner concerned
56	JS/CTI, LT	Principal CTO, LT	District Deputy Commissioner concerned
57	JS/CTI, WC	Assistant Commissioner, WC	District Deputy Commissioner concerned
58	JS/CTI,O/o Inspecting Assistant Commissioner	Inspecting Assistant Commissioner concerned	District Deputy Commissioner concerned
59	JS/CTI, Commercial Tax Special Circle Offices	Principal Officer of Special Circle Office concerned	District Deputy Commissioner concerned
60	JS/CTI, Commercial Tax Offies/Circles	Principal Officer of Commercial Tax Offices/Circles, concerned	Inspecting Assistant Commissioner concerned
61	JS/CTI, AIT&ST Office	Principal Officers of Office concerned	Inspecting Assistant Commissioner concerned
62	ACTO/JS/CTI, O/o Deputy Commissioner (int)	Manager, O/o Deputy Commissioner(Int.) concerned	Deputy Commissioner(Int) concerned
63	ACTO/JS/CTI, O/o Inspecting Assistant Commissioner (Int.)	Inspecting Assistant Commissioner (Int.) concerned	Deputy Commissioner(Int) concerned
64	ACTO/JS/CTI, O/o Inspecting Assistant Commissioner (IB)	Inspecting Assistant Commissioner(IB) concerned	Deputy Commissioner(Int) concerned
65	Intelligence Inspector, Intelligence Squad	Intelligence Officer, Intelligence Squad concerned	Inspecting Assistant Commissioner (Int.) concerned
66	Intelligence Inspector (IB)	Intelligence Officer (IB) concerned	Inspecting Assistant Commissioner (IB) concerned

67	CTI, CTCPs/ Facilitation Centres	Principal/Admin CTO/ IAC in charge of CTCP/Facilitation Centres	IAC in charge of CTCP or Facilitation Centres/ District Deputy Commissioner concerned
68	ACTO/JS/CTI, O/o DC (Law)	Manager, O/o Deputy Commissioner (Law)	Deputy Commissioner(Law)
69	ACTO/JS/CTI, O/o DC (Appeals)	Deputy Commissioner (Appeals) concerned	Joint Commissioner -1
70	ACTO/JS/CTI, Law Office	Law Officer	District Deputy Commissioner concerned
71	JS, KVAT, AIT&ST AT, Ekm	Secretary, KVAT,AIT & STAT, Ekm	Chairman, KVAT,AIT&ST AT
72	JS, KVAT, AIT&ST AT, Addl. Benches	Assistant Secretary, KVAT,AIT & ST AT, Addl. Bench concerned	Secretary, KVAT,AIT & ST AT, Ekm

No. E1-1915/2016/CT.

Office of the Commissioner,
Commercial Taxes,
Thiruvananthapuram,
Dated: 10.08.2016.

CIRCULAR No. 12/2016

Sub:- Lapses pointed out in audit – remedial measures to avoid recurrence of defects.

.....

The Committee on Public Accounts in its various reports opined that same mistakes which the audit pointed out in earlier reports are repeated year by year. Repeated occurrence of such short assessments in the same files for years together could indicate possible malafide to extend undue favour to those dealers. The Committee on Public Accounts express its displeasure over the inertia exhibited by the officials in not taking timely action on cases pointed by audit and recommends that responsibility shall be fixed in those cases.

Based on the above PAC observations, the following instructions are issued:-

1. It is observed that the same accounts of incorrect assessments are being continue for years together due to the fact that the officers are approaching the matters in an insignificant manner and are not vigilant in duties. With a view of avoid such mistakes in future various circular instructions have been issued to the assessing authorities and the common recurrent defects were bunched and forwarded to the assessing authorities of utilization. The controlling officers are directed to submit monthly report of recurrence of defects of LAR, draft note and draft paras in the proforma attached.
2. In spite of the specific directions the assessing authorities and controlling officers have not adhered to the instructions and the matter is of serious concern which need to be sorted out. In case of sustainable defects pointed out, the officers shall identify similar defects in the same file for subsequent & previous years and take action simultaneously.
3. The officers shall identify similar defects in similar files and take appropriate action so that recurring defects can be avoided.
4. There is need to improve supervision by IAC and Deputy Commissioner, by ensuring that mistakes pointed by AG are not repeated in the same files as well as the similar files.

IT ml

5. All Deputy Commissioners and Inspecting Assistant Commissioners are requested to analyse the defects / irregularities pointed out in audit by Accountant General and ensure that disciplinary action in cases where major irregularities leading to loss of revenue have been noticed are brought to the notice of higher authorities.

Sd/-

COMMISSIONER

To

All concerned.

// Approved for issue //


Joint Commissioner (A&I)

10

ITME

No.C1-14373/16/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O
Thiruvananthapuram 695002
Dtd.19-08-2016

CIRCULAR No.13/ 2016

Sub:- KVAT Act, 2003 – Last date for filing option for payment of
compounded tax u/s. 8 – further extension – reg.

Ref:- Circular No. 5/16

Considering the request from the various trade bodies, associations
and dealers, the last date for filing option for payment of compounded tax
under section 8 of Kerala Value Added Tax Act, for the year 2016-17 is
further extended upto 31st August, 2016. No further extension will be
granted.

All assessing authorities shall take note of the above position.

To

COMMISSIONER

All concerned.

No.C1-1880/2016/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, 8th Floor
Killipalam, Karamana – P.O.
Thiruvananthapuram 695008
Dtd.20 / 08 / 2016

CIRCULAR No.14 / 2016

Sub:- Check List for processing Refund Application – reg.

Ref:- Circular No.09/2016.

In the circular referred above, instructions were issued to assessing authorities to prepare a check list before allowing refund, as given in the said circular. It was further noticed that in many cases, refunds were allowed without examining the principles of unjust enrichment and collected tax. When the dealer pays tax to Government and when it subsumed in the cost of goods sold, then it is presumed that the tax is collected as part of sale value and any refund of such subsumed tax will be an unjust enrichment. Again, it is clearly stated in law that collected tax is to be forfeited and not to be refunded.

In the circumstances, the check list for refund as per Circular No.09/2016 stands revised as per the following. Other instructions given in the said circular stands as such and are to be strictly complied with.

Check list for refund processing

No	Particulars	Check List	No	Particulars	Check List
01	KVATIS – Build from other sales		17	Stock transfer out – F' Forms and proof	
02	KVATIS – Build from others purchases		18	Stock transfer out – KVATIS - CTCP data	
03	KVATIS – CTCP, 8FA, Parcels for purchases		19	Advance tax – CTCP – KVATIS	
04	KVATIS – CTCP, Parcels for interstate sales		20	Closing stock – Analysis (OS + P – CoGS)	
05	Sale at concessional rates – Forms		21	Closing stock valuation – Random	
06	Crime files		22	Closing stock – Increase / Decrease	
07	OR files		23	ITC – KVATIS BFO Sales	
08	LAR in previous 3 years		24	Exemptions – Proof	
09	Internal audit in previous 3 years		25	Export – Proof	
10	Data Mining Report		26	Deemed Export – Form 'H' and proof	
11	Growth / Fall in tax payment		27	Growth / Fall in total turnover	
12	Growth / Fall in taxable turnover		28	ITC Capital goods	
13	Special rebate		29	Dues / Arrear, if any	
14	Other credits – summary of return		30	Unjust enrichment	
15	Tax credit – credit notes		31	Collected tax	
16	Interstate sales – C Forms		32	Others	

19
22/8


COMMISSIONER

No.C1-1880/16/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, Killipalam,
Karamana – P.O.
Thiruvananthapuram 695002
Dt 27 / 08 / 2016

CIRCULAR No 15 / 2016

Sub.- Kerala Finance Bill, 2016 – Commercial Taxes Dept. – Streamlining
procedures of Check-posts – reg.

Ref:- Para 244 of Revised Budget Speech. 2016-17.

Now-a-days several complaints are being lodged by the merchant associations and trade bodies regarding the procedure followed by the check post officials when goods are consigned into/out of the State through the check post citing several technical reasons causing delay in clearance and imposing security deposits. In the circumstances to simplify the procedures at check post in clearing the consignments, a general guideline is hereby issued so that no security deposit shall be demanded in cases involving the following technical reasons.

01. Cases involving non-inclusion of commodities under transport in the registration certificate.
02. Goods of registered dealers transported as stock transfer with valid declaration and stock transfer note.
03. Machinery of works contractors, properly declared.
04. Clerical mistakes in the invoices like changes in dates, TIN, vehicle number, if the dealer owns up the consignment.
05. Mistakes in Form No.8F declaration and Form No.16 with reference to the invoice / bills or other accompanying documents, the dealer or person shall be given an opportunity to correct the mistakes in the Form No.8F declaration and Form No.16.
06. Misclassification in rate of tax of commodities noticed in the invoices and declarations shall not be dealt with by the check post authorities, but shall be forwarded to respective assessing authorities with records for appropriate action. But misclassification and other defects detected on actual physical verification of goods with accompanying documents shall be dealt with as a case of suspected evasion of tax.
07. Goods transporting into the State for complying interstate works contract within the State shall not be detained, but shall be forwarded to the concerned assessing authorities for verifying the claims.


COMMISSIONER

1

No.C1-1880/16/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, Killipalam,
Karamana – P.O.
Thiruvananthapuram 695002
Dt 27 / 08 / 2016

CIRCULAR No 16 / 2016

Sub:- Kerala Finance Bill, 2016 – Commercial Taxes Dept. – One time settlement of arrears due under the KGST Act & CST Act – Amnesty Scheme, 2016-17 – reg.

Ref:- Kerala General Sales Tax Act, 1963 & Central Sales Tax Act, 1956.

Clause (5) of Kerala Finance Bill, 2016 read with Para 264 of Revised Budget Speech 2016-17 provides for settlement of outstanding arrears relating to the period ending on 31st March, 2005 under the KGST Act, 1963 and CST Act, 1956. This scheme will not be applicable to a Public Sector Undertaking under the control of Government of India.

01. This facility of settlement of arrears, to be called the Amnesty Scheme, 2016-17, is available to all outstanding arrears under KGST Act, 1963 and the CST Act, 1956.
02. Dealers who are in arrears relating to the period ending on 31st March, 2005 can opt for settling the arrears by availing a complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon.
03. The demand created up to 31st March, 2016 for the assessment years up to 2004-05 can be settled under this scheme.
04. In cases where option was filed as per the previous amnesty scheme and default committed after remittance of one or two installments, such remittances shall not be considered for settling the arrears under this scheme. The present liability only will be considered under this scheme.
05. There shall not be any refund subsequently for the dues settled under this scheme in any circumstances.
06. Only dealers who opt for settling all their outstanding arrears under these Acts for all the years shall be eligible to apply under this scheme.
07. Any amount paid under conditional stay in any appeal, revision or order of High Court or Supreme Court or voluntarily paid against the demand will be reckoned for arriving at the settlement of arrears provided there must be litigation pending in any of these forums. Such litigations shall be withdrawn unconditionally before opting under this scheme and proof thereof must be produced at the time of filing option.

08. The arrears advised for Revenue Recovery are also eligible for settlement under this scheme.
09. In order to opt under this scheme, the dealer shall file an application before the assessing authority in the prescribed form in Annexure - I before 28th February, 2017.
10. On receipt of the application the assessing authority shall verify the correctness of the arrear position stated by the dealer with reference to assessment records and relevant registers and intimate the dealer in Annexure – II the amount due under this scheme and thereupon the dealer shall remit the amount in lump-sum or in three equal installments on or before 28th February, 2017.
11. If the dealer defaults in making payment as per the permission given in Annexure - II, the reduction granted shall be revoked by an order in writing by the assessing authority after giving such dealer an opportunity of being heard within thirty days of the default.
12. No appeal shall lie in any court, tribunal or appellate authority with respect to the amount settled under this scheme.
13. All assessing authorities shall maintain a register in Annexure - III containing details of arrears settled under this scheme.
14. The collection details shall be reported separately. The Deputy Commissioners shall give periodic progress report of settlement of arrears under this scheme to the Commissioner fortnightly.

Sd/-
COMMISSIONER

Annexure - I

(To be submitted in Duplicate)

Application for settlement of arrears under the Amnesty Scheme, 2016-17

- 01. Name and address of the assessee :
- 02. R.C. Number :
- 03. Status : Sole proprietorship / partnership / company / others
- 04. Type of Business : Trading / Manufacturing / Works contract / others
- 05. Details of arrears for which settlement has been opted.



- 06. Appeal / Revision / Court cases if any pending details



- 07. Details of attachment of assets if any under Revenue Recovery
- 08. Value of attached assets

DECLARATION

I Shri / Smt..... Hereby declare that the details stated above are true and correct to the best of my knowledge.

I further declare that I am competent to file application in the capacity as the

I hereby opt for settlement of the arrears in pursuance of the scheme declared in Para 264 of the Revised Budget Speech, 2016-17.

I hereby undertake to withdraw the appeals / revisions / court cases and other cases relating to these matters on acceptance of this application.

I further undertake that on acceptance of this application I shall abide the conditions of payment without fail.

Place:

Signature:

Date:

Name & status

Annexure – II

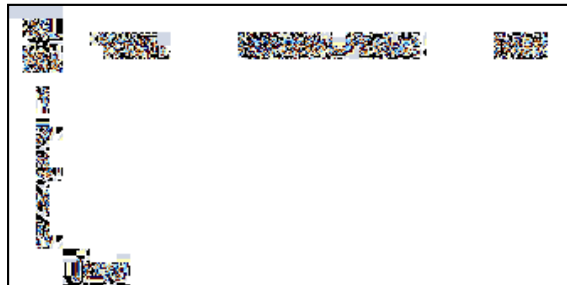
(To be prepared in Duplicate)
**INTIMATION OF PAYMENT OF ARREARS
UNDER THE AMNESTY SCHEME, 2016-17**

Name of Office
Reg. No.

To

Sri. / Smt.....

On a consideration of the application dated..... / 2016 filed by you for settlement of the outstanding arrears you have been found eligible. Accordingly, you are hereby permitted to settle the arrears as detailed hereunder:



Place:

Signature:

/ Seal /

Date:

Name & designation of
Assessing Authority

Annexure – III

Register of Settlement of Arrears under the Amnesty Scheme, 2016-17



No.C1-1880/16/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, Killipalam
Thiruvananthapuram
Dtd 27 / 08 / 2016

CIRCULAR No 17 / 2016

Sub:- Para 262 of the Revised Budget Speech, 2016 – Sec.25E introduced in the KVAT Act vide Kerala Finance Bill, 2016 of the Fourteenth Kerala Legislative Assembly – Amnesty Scheme for presumptive dealers – Operational instructions issued – reg.

Ref:- Kerala Finance Bill, 2016

There are around 30,000 PIN registered dealers in Kerala in the year 2015-16. They are eligible for payment of tax at 0.5% subject to the conditions laid down in Sec.6(5) of the Kerala Value Added Tax Act 2003. It is a settled position in fiscal statute that in order to avail special rate the dealer is liable to comply with the relevant provisions of the Act and Rules strictly. But, scrutiny of the returns and purchases furnished by these dealers revealed that more than 20,000 dealers are not conceding the entire transactions and resultant sales in their returns so as to keep the turnover below 60 lakhs. Their actual turnover would be more than Rs.50/Rs.60 lakhs. Therefore, they are not entitled for payment of tax @ 0.5% on their turnover. In the circumstances, notices were issued to such dealers proposing to assess the turnover at the schedule rate of tax on the purchases suppressed and also penalty notices were issued under Sec.22(7) of the Act at thrice the amount of tax due. Considering the request from the various trade organizations pointing out the severity of the burden of huge penalty and tax, a new amnesty scheme was introduced by the Government through Finance Bill, 2016.

1. As per this Amnesty Scheme, the dealer has to pay tax at scheduled rate on the unaccounted purchases with 5% gross profit. If such payment is made, all penalties and interest, including penalty under sub-section (7) of Sec.22 of the Act shall be waived.
2. As per the amnesty provision, such dealers can opt to settle the arrears or dues for the period up to 2015-16.
3. There shall not be any refund subsequently for the dues settled under this scheme in any circumstances.

The following categories of Dealers are eligible to opt under this Amnesty scheme:

1. The Registered Presumptive Tax Dealers who have suppressed transactions detected by the Department.
2. The Registered Presumptive Tax Dealers who have suppressed transactions and voluntarily applying for amnesty.
3. The unregistered Dealers but liable to get themselves registered under the Act who have suppressed transaction and now voluntarily applying for amnesty.

The eligibility for opting under this scheme is as follows:-

1. The applicant should obtain TIN registration w.e.f. 01-04-2016.
2. All pending cases in any appellate / revisional forums or any court of law shall be withdrawn before filing option. They will adduce the evidence of the same along with the application.
3. The option shall be for settling the arrears related to all financial years in which unaccounted transactions were detected.
4. Presumptive Tax dealers against whom unaccounted transactions were unearthed by the respective Assessing Authorities during the period up to 2015-16 and the same were settled completely by remitting the tax and penalty shall not be eligible to opt under this scheme.
5. The dealer shall voluntarily declare the unaccounted transactions where the Assessing Authority had not detected the same before filing this option.
6. Unregistered dealers may voluntarily declare the unaccounted transactions and opt for the amnesty scheme.

The process:

1. The dealers eligible under this scheme shall file the option on or before 30-11-2016. The option shall be filed in **Annexure – I** attached to this circular.
2. On receipt of the option, the Assessing Authority shall intimate within four weeks, by order in Annexure – II, the amount to be remitted under this scheme.
3. 30% of the settled amount shall be paid within two weeks from the date of receipt of the intimation from the assessing authority in **Annexure – II** and the balance in lump-sum or in 12 equal monthly installments at the option of the dealer within such period.
4. All Assessing Authorities shall validate the disclosures with the data available and by giving opportunity to the Presumptive Tax Dealers and arrive at the conclusion.
5. All Assessing Authorities shall maintain a register in this regard in **Annexure – III**.

All the above instructions-related details may be referred to in the Kerala Finance Bill, 2016. The instructions issued above will be subjected to amendments and validations, if any, that may be made in this Bill provisions by the Legislature, when Kerala Finance Act, 2016 will become final.

Sd/-
COMMISSIONER

Annexure – I

[Option to be filed by the dealer under Sec.25E of KVAT Act]

From

The name of dealer

PIN

To

The name of the assessing authority

.....

Sir,

I hereby opt to settle the cases against me under Sec.25E of the KVAT Act. The details of which are furnished hereunder:

Part – A

[to be filled by dealers where assessment has already been completed or notice has already been issued proposing the assessment]

1	Assessment year for which option is submitted						
2	Tax rate	0%	1%	4% / 5%	12.5% / 13.5% /14.5%	Other (Specify tax rate)	Total
(a)	Actual suppressed purchase turnover detected by assessing authority						
(b)	Gross profit estimated by Assessing Authority						
(c)	Sales turn over suppression if any						
(d)	Total suppressed turn over (a+b+c)						
(e)	Addition to turnover proposed / ordered.						
(f)	Estimated total turnover (d+e)						
(g)	Tax determined						
(h)	Total penalty imposed / proposed.						
(i)	Interest						
(j)	Total demand						
(k)	Disclosure by Dealer regarding unaccounted transactions other than mentioned above if any						
3	Details of pending appeals / WPCs filed						
(a)	Assessment year						
(b)	Name of the appellate authority / Court						
(c)	No. of appeal						
4	Details of conversion of PIN registration to TIN :						
(a)	New TIN number allotted						
(b)	Details of closing stock as on 31-03-2016						

Part – B

[To be filled in by dealers where notices has not been issued by the assessing authority or where the PIN dealer is voluntarily declaring his unaccounted transactions]

1	Assessment year for which option is submitted						
2	Tax rate	0%	1%	4% / 5%	12.5% / 13.5% / 14.5%	Other s (Specify tax rate)	Total
(a)	Suppressed turnover voluntarily declared by the PIN dealer						
2	Details of conversion of PIN registration to TIN :						
(a)	New TIN number allotted						
(b)	Details of closing stock as on 31-03-2016						

Part – C

[to be filled in by unregistered dealers voluntarily disclosing unaccounted transactions]

1	Assessment year for which option is submitted						
1	Tax rate	0%	1%	4% / 5%	12.5% / 13.5% / 14.5%	Other s (Specify Tax rate)	Total
(a)	Suppressed turnover voluntarily declared by the unregistered dealer						
2	Details of TIN registration:						
(a)	TIN number allotted						
(b)	Details of closing stock as on 31-03-2016						

Declaration

I hereby declare that the above information submitted are true and correct.

Date:

Place:

Signature of the dealer / authorized signatory

For Office use only

(01) Date of receipt of application;

(02) Whether the application for conversion of PIN to TIN has been received, details thereof;

(03) Whether appeals in any forum has been withdrawn by the assessee, details thereof;

Assessing Authority

Annexure – II*[Order of the Assessing Authority under sub-section (3) of Sec.25E of KVAT Act]*Office of the
Address.....

PIN No.....

Order No.....

Dtd.....

- (01) In pursuance to your option No.....dtd..... for settling the cases of unaccounted purchases under Sec.25E, your tax liability for the year(s),,,, is calculated as below:

[Add separate tables for each year]

	Year	Turnover Taxable at					Total
		0%	1%	4% / 5%	12.5% / 13.5% /14.5%	Other (Tax rate)	
(a)	Actual suppressed purchase turnover detected by Assessing Authority						
(b)	Suppressed purchase turnover voluntarily declared by Dealer						
(c)	Total suppressed purchase turnover (a+b)						
(d)	Gross profit @ 5% (c x 5%)						
(e)	Total estimated turnover (c+d)						
(f)	Suppressed sales turnover						
(g)	Total suppressed turnover (e+f)						
(h)	Tax payable under Amnesty scheme						

- (02) Accordingly, your total tax payable under option for settling the cases under this Scheme is as under:

Year	
Year	
Year	
Year	
Total tax payable under option	

Assessing Authority

To

The PIN dealer address
Copy to Assessment files

Annexure – III**Register for Sec.25E of KVAT Act**

PIN No.						Name & Address				
Year	Date of receipt of application	Cases where assessment and penalty has been completed before option					Amt. determined under option	Amt. adjusted to the option from column No.5	Amt. to be paid under option	Date of last installment
		Order No. & Dt.	Total demand	Paid	Payment particulars - Chalan No. & Date	Balance to be paid as on the date of option				
1	2	3	4	5	6	7	8	9	10	11
2010-11										
2011-12										
2012-13										
2013-14										
2014-15										
2015-16										
Total										

Particulars	Amount	Payable by date	Details of payment made			
			Name of Treasury	Chalan No.	Date	Amount
30% of the total tax						
1st Installment						
2nd Installment						
3rd Installment						
4th Installment						
5th Installment						
6th Installment						
7th Installment						
8th Installment						
9th Installment						
10th Installment						
11th Installment						
12th Installment						

No.C1-1880/16/CT

Office of the Commissioner of
Commercial Taxes
Tax Towers, Killipalam
Karamana, Thiruvananthapuram
Dt 27 / 08 / 2016

CIRCULAR No 18 / 2016

Sub:- Kerala Finance Bill, 2016 – Bill No.16 of the Fourteenth Kerala Legislative Assembly – Salient features and certain operational instructions issued - reg.

Ref:- Kerala Finance Bill, 2016.

Kerala Finance Bill 2016 (Bill No.16) is introduced in the Fourteenth Kerala Legislative Assembly on 18/07/2016. The provisions contained in the Bill takes effect from 18.07.2016 vide the declaration under the Kerala Provisional Collection of Revenues Act, unless otherwise specified.

The salient features of the Bill are discussed below:

Kerala Surcharge on Taxes Act, 1957

A surcharge at the rate of 5% is levied on the tax payable under section 6 of KVAT Act with respect to the sale of water, soda, soft drinks, fruit juices and other beverages aerated or not, intended for human consumption and sold in plastic containers below 20 liters. The provision of input tax credit and special rebate will not apply to surcharge. For this purpose, new sub-section (1AA) has been introduced in Section 3 of the Act.

The dealers are not entitled to collect this surcharge payable by them under the Act (Amendment in sub-section (2) of Section 3 may be seen).

Kerala General Sales Tax Act, 1963

Amnesty scheme as per Section 23B of the Kerala General Sales Tax Act has been reintroduced with changes in the concessions. A detailed Circular is issued separately.

Kerala Tax on Luxuries Act, 1976

- Hostels run directly by the educational institutions and working woman's hostels run by religious or charitable institutions, registered under the Travancore – Cochin Literary, Scientific and Charitable societies Registration Act, 1955 is exempted from payment of luxury tax.
- The luxury tax rate in respect of hotels has been changed at the following rates :-

Gross Charges	Rate of tax
Up to Rs.400/-	0%
Above Rs.400 – Rs 1000 per day	6%
Above Rs.1000 per day	10%

- All concessions granted as per Kerala Finance Act, 2014 are withdrawn.
- A new provision vide Sec.10AB has been introduced thereby made the Directors of a Private Limited Company jointly and severally liable for unpaid taxes.

Kerala Agricultural Income Tax Act, 1991

Only companies are made liable for AIT and the tax rate is limited to 30% of the total agricultural income.

Kerala Value Added Tax Act, 2003**New tax proposals:**

1. All types of plastic carry bags including non-woven poly propylene bags are taxed at 20%.
2. Disposable tumblers of plastic are taxed at 20%.
3. All textiles items taxable at 1% are increased to 2%.
4. LNG is taxable at 14.5%.
5. Coconut oil and rice bran oil are taxed at 5%.
6. Washing soap bars and cakes manufactured using Coconut Oil taxable at 1% increased to 5%.
7. Burgers, pizza, tacos, dough-nuts, sandwiches, burger-pattys, pasta, bread filling and other cooked food items sold by restaurants having a brand name or a trade mark registered under the Trade Marks Act, 1999 are taxed at 14.5%.
8. Basmati Rice, Atta, Maida, Sooji and Rava sold in packages with MRP printed on such packages are taxed at 5%.
9. The sale of cardamom at the point of auction conducted at the auction centre holding a valid license issued by the Spices Board under the Cardamom (Licensing & Marketing) Rules, 1987 is taxed at 2%.

Tax concessions:

1. The tax rate of mobile phone charger sold along with mobile phone in sealed pack is 5% with effect from 01-04-2005.
2. The tax rate of waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators; electrical parts of machinery or apparatus is reduced from 14.5% to 5%.
3. The tax rate on the sale of disposable plates and cups made of styrofoam for the years 2013-14 and 2014-15 is at 5%.

Tax exemptions:

1. Cooked food manufactured by the prisoners and sold by the Kerala Prison and Correctional Services Department is exempted with effect from 01-04-2011.
2. The exemption granted to sale of copy right and transfer of right to use of cinematographic films is restored.
3. Cement or concrete frames for doors and windows with or without MS-rod and MS-flat is exempted from tax with effect from 01-04-2005.
4. Cleaning liquids for removing pesticides residue from vegetables manufactured by units using the technology developed by KAU or other recognized institution is exempted from tax.

5. Earthen pots made from earth clay including flower pots, receptacles, statues and earthen oven are exempted from tax.
6. Municipal Plastic Waste is exempted from tax.
7. Braille Printer and assistive devices for visually challenged persons like white cane and electronic cane are exempted from tax.

Other Statutory amendments with respect to processes and procedures:

1. For the purpose of sec. 6(7), regarding SEZ exemption, it is clarified that building materials would include basic building materials and other goods essentially required to make building effectively functional and capable of being used by the unit.
2. The orders under sub-clause (iv) of Sec.8(f) shall be appealable only to appellate tribunal [Sec.8(f)(v)].
3. A contractor with CST registration can compound other works which are not in the negative list [Sec.8(a)].
4. Single option is allowable only for contract(s) awarded by Govt. of Kerala, Kerala Water Authority and local bodies. For other contracts, work-wise compounding option will have to be filed. [Sec.8(a)(ii)]
5. A work once compounded will remain compounded till the completion of such work, subject to prevailing rates applicable for each year. [Sec.8(a)]
6. Ongoing works awarded by Govt. of Kerala, Kerala Water Authority and local bodies which remain unexecuted fully or partly as on 31-03-2014, the compounded tax rates would remain the same when the contractor had opted for these works, up to 31st March, 2016. [Sec/8(a)]
7. The burden of proof of denying a transaction or correctness in any documents furnished using the user identification-name and password allotted to a dealer by the Department lies on the dealer himself. [Sec.9]
8. Subsequent dealer can avail input tax credit for the differential tax remitted by the first seller on account of tax rate classification disputes. [Proviso to Section 11(5)]
9. The power to condone delay for filing option u/s. 8 in respect of works awarded by Government of Kerala, KWA or local bodies is transferred to the district Deputy Commissioner, which was earlier vested with the Commissioner. [Section 20A]
10. Special provision is introduced for waiving penalty and interest for bakery dealers who sold branded bakery products but had not remitted the tax at the prescribed rate for the period up to 2013-14. [New provision 25D]
11. Amnesty scheme for presumptive dealers is introduced. The presumptive tax amnesty scheme circular is issued separately. [Sec. 25 E]
12. Dealers whose total turnover for the previous year had exceeded Rs.5 crores will have to upload the bill / invoice / cash memorandum on a real time basis in KVATIS. A suitable scheme and facilities shall be devised for the same and it will come into effect from notified date. [Sec.40]

13. Units of Kerala State Electricity Board Limited which obtained separate registration as per sub-sec (3) of Section 20 shall file trial balance for each such units along with audited statement of accounts and certificate of the company. [Sec.42]
14. When goods are transported out of the State through coastal cargo, air or railways, such dealer or person or his agents by whatever name called, shall furnish a declaration to such authority in such manner as may be prescribed. [Section 46]
15. The sale of seized goods in auction shall be conducted only after confiscation. [Sec.47]
16. Fee for transit pass is raised from Rs.100/- to Rs.250/-.
17. Any dealer filing an appeal to the first appellate authority against the order of the assessing authority with proof of payment of 20% of the disputed amount of tax along with the collected tax, if any, there will be an automatic stay on the recovery of balance demand in such cases without further orders from the appellate authority. [Sec.55(4)]
18. A suo-motu revisional power by the Commissioner or the authorized Joint Commissioner against the orders passed by the first appellate authority is introduced, in cases where such orders are prejudicial to the interest of revenue. [Sec.58A]
19. Sending notices through KVATIS portal along with SMS alert is recognized as a mode of service in the Act. [Section 88].

All the above instruction-related details may be referred to in the Kerala Finance Bill, 2016. The instructions issued above will be subjected to amendments and validations, if any, that may be made in this Bill provisions by the Legislature, when Kerala Finance Act, 2016 will become finalized.

Sd/-
COMMISSIONER

F1.Pdl-01/16-17

Office of the Commissioner,
Commercial Taxes, Tvpml.,
Dated : 26..08..2016.

CIRCULAR NO:19/2016

Sub:- Filing of Statement of facts – Instructions issued – Reg.

It has come to the notice that assesseees are filing writ petitions and writ appeals before the Hon'ble Supreme Court, Hon'ble High Court, various Tribunals without impleading the Commissioner of Commercial Taxes as respondent even in cases where decisions at headquarters level have to be taken.

As the Hon'ble High Court and Tribunals are listing the cases with short notice the department have to ensure that the statement of facts are filed in time, incorporating remarks on all points raised in the petitions or appeals filed.

Therefore the following instructions are issued for strict compliance by all concerned.

- 1) Remarks against statement of facts and grounds shall be submitted to the authorities concerned ie. The Advocate General of Kerala, the Government Pleader, the Resident Commissioner New Delhi, Law Officers of the office of the Resident Commissioner and Tribunals as the case may be as and when the writ petition or writ appeal or other petitions are received.
- 2) The statement of facts shall contain synopsis, brief history of the case, para wise remarks against the statements, remarks against grounds and prayer.
- 3) The time limit prescribed for each and every case shall be strictly adhered to.
- 4) In cases of impleading the assessing authority or the Appellate Authority alone, if the cases are of importance at state level the remarks of the Commissioner shall be obtained before filing the statement of facts. In such cases the Joint Commissioner (Law) should be addressed to obtain the views for decisions of the department from the Commissionerate.


COMMISSIONER

No. B11-44089/09/CT

Office of the Commissioner,
Commercial Taxes, Kerala,
9th Floor, Tax Towers,
Killipalam, Karamana P.O,
Thiruvananthapuram.
PIN – 695 002.
Dated: 06-10-2016

CIRCULAR No. 20/2016

Sub: Commercial Tax Department – Migration of KVATIS Database and Application to new server – Downtime for e-services – Procedure to be followed during downtime – instructions issued – reg.

The activities related to the upgradation of KVATIS server is in progress. Migration of KVATIS database and application to the new server requires minimum 3 days. Hence, the entire e-services related to the Department of Commercial Taxes will be disrupted from 6.00 AM on 9th October to the midnight of 11th October 2016. Since the period comes under Pooja Holidays, CTCPs alone will be functioning during these days. In the absence of online operations, the procedures related to the CTCPs are to be performed manually. For the smooth and unhindered functioning of the CTCPs during the period, the following instructions are issued.

- (1) Information as to the non-availability of e-services during the period is to be displayed conspicuously at the premises of all CTCPs well in advance.
- (2) Movement of vehicles, goods transported, Name of driver, consignor, consignee, value of goods etc. are to be entered in No.1 register, as done during the pre-online period.
- (3) The 8F declarations already generated are to be approved manually, if presented during downtime. Others will have to furnish manual 8F declaration. Blank declaration forms required, are to be supplied to the CTCPs by the Deputy Commissioner concerned.
- (4) The inspectors on duty at the CTCPs should affix the office seal on all the invoices and other transport documents before allowing the vehicles to pass through. The office seals should be kept under their custody and shall not be handed over to the drivers for affixing seal.

- (5) The duty inspectors at the CTCPs who receive the manual declarations and other documents will also be responsible for uploading the same online when the new server is made functional.
- (6) Documents such as Delivery Note, Transit Pass, Form 16 (both approved by the IAC and not) etc. shall also be accepted in manual form.
- (7) All the Intelligence Squads should be very alert during the said period and shall conduct random over checking. At least one Intelligence Squad shall be present round the clock at the major CTCPs so as to prevent any possible attempts for evasion of tax. The IACs at all major CTCPs shall supervise the functioning of the CTCPs during the said 3 days so as to avoid any unwanted confusion and complaints of harassment on the part of the transporter and the dealer community.
- (8) Advance tax shall be accepted in cash and receipt for the same shall be issued, in relaxation of the directions issued vide Circular No. 15/2009.
- (9) All the district DCs having jurisdiction over the respective CTCPs shall personally ensure the hassle free functioning of the CTCPs during the said period. They shall also ensure the availability of sufficient number of manual forms, registers, receipt books etc. required at the check posts.
- (10) All DCs shall designate such officers for issuance and approval of manual 8FA declarations and delivery notes after verifying the genuineness of the dealer.

The instructions issued vide this circular are valid only for the three days mentioned above.

S/d

COMMISSIONER

To

All concerned

F1.PdI-01/16-17

Office of the Commissioner
Commercial Taxes
Tax Tower, Karamana
Thiruvananthapuram
Dated 19/11/2016

Circular No.21/2016

Sub :- Contempt of Court of cases – instructions issued – reg

It has come to notice that communication regarding even Contempt of Court cases is reaching to the Head Quarters at the last minute only. This creates huge administrative inconvenience. Under the above circumstances following instructions are issued for strict compliance.

1. In any litigation, if the Hon'ble Supreme Court/High Court or any Tribunal or Appellate Authority has passed orders there are only two options i.e either the orders should be implemented or should be challenged by filing appeal, petitions or revisions as the case may be. This should be done within the time stipulated. A register should be maintained for these cases invariably in all offices in the format appended (Proforma I). Details of each such cases and action to be taken/ report should be forwarded to the controlling officer in the format prescribed along with other particulars on monthly basis (Proforma II).

2. In case of any Contempt of Court Case the information should be given to the Head Quarters on the very next day itself. Deputy Commissioner (Law) should monitor this on daily basis.

3. If any judgment pronounced by the Hon'ble High Court is against the interest of revenue, Deputy Commissioner (Law) should obtain legal opinion from the Advocate General in this regard immediately and case shall be taken up to higher forum for further litigation.

4. If any order issued by the Tribunal is against the interest of revenue the Law Officer should communicate legal opinion to the assessing authority and the controlling officers immediately for initiating further litigation.

5. If any Appellate order issued by the Appellate Authorities is against the interest of revenue the Deputy Commissioner concerned and Law Officer shall forward remarks on the order immediately on receipt of order to the authorities concerned for further litigation without delay.

These instructions are to be strictly adhered to.


Commissioner

To

All Officers

