



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

No.CT/ 1588 /2018 Dt d 08 /02/2019

Circular No.2 /2019

Sub:-KVAT Act – Assessment of KVAT files – Scrutiny Module (ScM) –
guidelines/Instructions issued for timely completion – Reg.

The Government has set up the target of 30% revenue growth this financial year. It is observed that the revenue work progress is slow. Time and again Government has informed to take strategic actions to improve revenue by identifying potential areas and completing the priority cases.

Accountant General in the Report the effectiveness of Kerala Value Added Tax Information System (KVATIS) in the Tax Administration of Commercial Taxes Department, Government of Kerala has pointed out many aspects with respect to the loss of revenue and wrong assessments.

On the basis of the CAG findings, and also the routine verification of files by the supervisory authorities across the state that revealed various irregularities, random verification of assessment records of the dealers was done in some of the districts which revealed that the record keeping of the cases is very poor and statutory forms, certificates and statements as prescribed in KVAT Act and Rules to prove the veracity of claims have not been adduced. In majority of cases scrutiny and assessments have not been attempted. Wherever it is done, in many cases, irregularities were noticed such as fixing compounded tax rate, computation of tax liability and even basic fact of eligibility for compounding. The officers have not taken serious efforts in sending notices to collect the statutory data/records/ returns/ information

etc and the cases are going time bar. This could result in huge revenue losses to the State exchequer.

As GST is implemented, it is imperative that all pending VAT assessments, especially the cases which will be hit by the time limitation, should be completed in a time bound manner to ensure that legitimate tax is remitted to Government. Moreover, in view of the Amnesty Scheme 2019-20 announced by Government, it is imperative that all pending VAT assessments till July 2017 be completed by September 2019.

In order to streamline the scrutiny and assessment of dealers the following instructions shall be meticulously followed and actions taken at district and officer level -

A. Strategy

1. Completion of assessment of various years from 2011 to 2018 in time series after completing each year separately.
2. Reopening of assessments upon noticing escapement.

B. Action Plan

- a. Updation of assessment files.

Wherever the statutory returns/ records / information/ forms not filed, upon receiving them, the copy shall be kept in the assessment files.

The scanners are provided to all the Circles, the submitted documents to be uploaded at relevant sections in the Module.

- b. Submission of the following statutory records as per the circular no. 7/2018 of the Prl Secretary and Commissioner dated 20th April, 2018 explaining regarding data collection.
- c. Other documents to be kept ready in files by the Assessing authorities are -
 - i. Any other report of data mining, internal audit team, economic intelligence wing, CAG audit, O&M inspection
 - ii. Copies of appellate orders and orders passed on the basis of Appellate orders
 - iii. Details related to CR/OR cases with respect to a particular dealer

- iv. Replies filed in respect of Data mining cases, internal audit paras, CAG audit, Economic intelligence wing and O&M inspection notes

Organizing the works at the respective seats in the Circle –

1. List out all the live and cancelled files –year wise and in descending order of tax payment.
2. Find out non filers. Complete the assessment of non filers systematically using scrutiny module.
3. Ensure that all the above dealers are included in the scrutiny module. If not, immediately inform the list of missing files to the Commissioner. The assessing authority shall be solely responsible to ensure that all the files are included in the scrutiny module. Dy Commissioner shall monitor the same.
4. A separate proceeding is already issued giving guidelines regarding collection of relevant records as per the KVAT Act. Accordingly in all the cases the records gathering initiatives may be taken.
5. The scrutiny works is already completed and the cases have been allocated to the respective Assessing authorities.
6. In order to ensure the priority works of the cases going to time bar the cases for the two years 2011-12 and 2012-13 shall be taken up for scrutiny and assessments first.
7. The scrutiny module can be used only in respect of dealers filing exclusively Form 10 and who have filed both Annual returns and Audited Statements. Those dealers who have not filed Audited statements/Annual return or filed any other type of returns or Compounded Medicine dealers/Petroleum dealers will not be covered under this scrutiny module. Hence the respective assessing authorities should list out such cases and ensure that those files are also assessed.
8. The Misclassification aspect is not covered by the scrutiny module since the tax rate wise Opening stock and Closing stock is not available in KVATIS. Any other aspect like Misclassification, that are not covered under scrutiny module, shall also be reckoned during book verification stage and that can be included in the “extra findings” in scrutiny module.

9. In some pre-assessment reports generated by scrutiny module, the mismatches thrown may be huge. This may be due to wrong entries made in the returns/Audited Statements filed by the dealer like non putting of decimal points, duplicate entries etc. Here before sending notice to the dealer, a prima facie analysis shall be done by the respective assessing authority and subsequently s/he must obtain the consent of the Deputy Commissioner regarding the genuineness of the figures, rather than mechanically taking the figures generated in the pre-assessment Notice.
10. The Standard Operation Practice for General Scrutiny Module is appended as an Annexure I.
11. The pre assessment notices are generated based on the data fed by the respective dealers in their respective Returns and statutory documents filed by them. These pre assessment notices are to be served to the Dealers and hearings conducted properly. The module generates the notices, hearing notes and has the provision to upload documents. Wherever the dealer is able to produce legitimate records, documents establishing bonafide, legitimate claims such claims shall be allowed and appropriate reductions in the quantum of turnover and tax shall be done. However, it must be ensured that the basis on which the deductions are allowed during the hearing shall be uploaded in the Scrutiny module in the respective field. As the scrutiny is done based on the Returns and other statutory documents filed by the Dealer, there are only three possibilities –
 - a. The figures shall remain same even after hearing by giving complete opportunity to the Dealers
 - b. The figures are increasing and tax liability is increasing
 - c. The figures are changing because of reduction allowed based on the legitimate documents produced before the hearing authority
12. The proof of the data that is entered in the module and which are not available in KVATIS or which is different from KVATIS shall be uploaded in the module and kept both as hard copy and soft copy which should be readily available for verification by the higher authorities.
13. The dealers pending assessment for entire assessment years shall be done at a stretch. Assessing authorities should complete the assessments in chronological order. As there is cascading effect on subsequent years. To begin with the assessment for the two years 2-11-12 and 2012-13 shall be done immediately so as to complete the scrutiny and assessment of these cases before 31st March 2019. Scrutiny and assessments for subsequent years shall be done immediately thereafter for completion by 30th September, 2019.

14. No undue adjournment is to be given for submission of statutory documents. More than two adjournments to be given only with permission of Dy Commissioner based on genuine reasons.
15. The completed assessment orders are to be passed and served in time. The notices and orders are to be uploaded in the Scrutiny Module.
16. All supervisory officers shall give approval of draft notices and orders only after thorough verification of the details.
17. Dy Commissioners shall monitor submission of all statutory documents by the dealers in time.
18. Dy Commissioners shall monitor the progress of assessment. They shall report the same every week.
19. The Circular has stipulated the broad strategy, methodology to organize the work in the office and various issues to be looked into, which is a guideline/Checklist. It is the responsibility of the Dy Commissioner and Assessing authority to ensure that all the statutory requirements as per the KVAT Act and Rules have been taken into consideration for completing the assessments and recovery of tax.

General instructions:

1. All Dy Commissioner shall ensure follow up at the Circle level with all the assessing authorities and regularly report the progress done in the district.
2. All Dy Commissioners shall ensure that pending OR/CR pertaining to the period 2011-12 and 2012-13 are completed and sent to the assessing authorities on or before 20th February, 2019 and those pertaining to the rest of the assessment years till July 2017 accordingly completed and sent to the respective assessing authorities before 31st March, 2019.
3. The Hon'ble High Court of Kerala has dismissed WP (c) No. 11335/2018 filed by M/s Sheen Gold and other connected cases by its dtd. 11th January 2019 directing that noticees who had obtained interim stay during the proceedings will have 15 days from the date of receipt of judgment by them to reply to the pre-assessment notices already issued. All assessing officers shall immediately forward copy of the judgment to the dealers within their jurisdiction who have filed such writ petitions by e-mail on or before 10th February 2019, if not already done. The email so sent shall be downloaded and kept with the assessment files for future record. In the event that email is not available for a particular dealer, the judgment shall be served on the party concerned after obtaining

proper acknowledgment. All Dy Commissioners shall monitor the same and report progress of action taken.

4. All respective nodal officers of the districts shall monitor the actions taken by the Assessing authorities at the Circle and facilitate further.
5. From Head Quarter a special team shall do continuous supportive supervision.

Instructions regarding Amnesty:

1. The Government has announced Amnesty scheme for tax dealers under VAT and other legacy statutes subsumed under GST. Assessments are mandatory before applying for amnesty. Hence the scrutiny module shall be used to complete assessments efficiently.
2. Along with the pre-assessment notice, the print of Amnesty calculation also may be given to encourage the dealers to opt for amnesty immediately as there is a specified time period 30th September, 2019 to submit applications for amnesty.
3. It is the responsibility of Deputy Commissioners to ensure that along with the Assessment orders, the amnesty calculations are informed to the dealer so as to enable the dealer to understand their actual tax liability and the amnesty amount as per the amnesty scheme declared by the Government.

Commissioner

Copy to –

All Jt Commissioners

All Dy Commissioners of the district

Dy Commissioner Internal Audit

C Section

Stock file.