

Office of the Commissioner,  
Commercial Taxes,  
Thiruvananthapuram,  
Dated:12-04-2007.

**CIRCULAR NO.17/07**

Sub:- KGST Act, 1963- Section 17D -Fast track method of completion of KGST assessments- instructions issued-reg.

As per the new section 17D of the KGST Act proposed in the Finance Bill, 2007, all assessments under the KGST Act pending as on 1<sup>st</sup> day of April, 2007 have to be completed under the fast track method.

The following instructions are issued in this regard:

1. Assessments under KGST Act for the assessment years up to and including 2004-05 shall hereafter be completed only under this method only. However, cases classified as having revenue potential, cases involving pending crime files or enquiry files, or cases where protective assessment has been ordered to be taken, or cases where special investigations are in progress for these years will continue to be dealt with in the usual manner. However files received from the Intelligence Wing or from the check posts without any offence shall be disposed by the team as is being done by the assessing officers at present.
2. Assessments by individual officers of cases eligible to be taken up under section 17D should not be taken up this year till further orders.
3. The Deputy Commissioners shall prepare the actual list of pending assessments as on the 1<sup>st</sup> April, 2007 both under KGST and CST Act.
4. Sufficient number of teams based on the pendency of the number of assessments will be constituted in each District by the Commissioner, for which the District Deputy Commissioners shall submit proposal before 14<sup>th</sup> April, 2007. The teams may include officers from Audit Assessment Wing and Intelligence Wing in addition to the officers of the Assessment Wing.
5. The teams shall have sufficient sittings in a week with out affecting the normal work of the concerned offices.
6. Around three thousand cases are still pending with the Intelligence Wing relating to the KGST period. The Intelligence Wing shall dispose these cases on a war-footing, complete them at any rate not later than 30<sup>th</sup> June 2007 and transfer such files to the concerned assessment circles before 15<sup>th</sup> July 2007. The concerned officers, including supervisory officers, will be personally responsible for any pendency of such cases beyond the cut-off date.
7. The Deputy Commissioners (Intelligence) shall forward a list of the pending cases to the concerned District Deputy Commissioners before 30<sup>th</sup> April 2007.
8. The 'revision cases' pending before the appellate fora shall go through their natural course of action and no assessment shall be kept pending for the reason that a revision in respect of any penal proceedings are pending before any appellate forum.
9. The teams shall first complete cases in which no files are pending with the Intelligence Wing / revisional authorities.

10. The notice issued for production of accounts shall contain a list of details required to be produced or filed at the time of hearing, so as to avoid adjournment of cases for want of any details. The list shall be prepared depending on the requirements in each file.
11. Notices prescribed under KGST Rules may be used with modification wherever necessary.
12. While completing the assessment, the team shall satisfy itself that normal books of accounts are maintained by the dealer and that he had filed returns as required by the statute. In cases where there is default in filing returns, the dealer may be permitted to file them and no penal provisions shall be invoked for the said lapse. Similar treatment shall be given in the case of audit certificates under section 27B of the said Act. Trading and profit and loss accounts in respect of those not covered under section 27B shall be obtained and filed. However, if the dealer fails to file such details even at the time of hearing, they shall be proceeded against as per the provisions of the Act, and assessment shall be completed based on the data available in the file and considering their antecedents.
13. Random verifications of the check post declarations shall be made and cases if any detected shall be disposed depending on the merits of individual cases.
14. The onus of proving the details furnished in the returns such as claim of exemption, reduction in tax rate etc; would lie on the dealers. The dealers are required to file the statements of interstate purchases effected by them during the respective period. They are also required to file statements of statutory declarations issued and received during the year. No assessment shall be postponed merely on the ground that all statutory forms for proving a particular claim have not been filed. In such cases assessments have to be completed in accordance with the provisions of the Act, as if there are no such forms. But no additions to the turnover shall be resorted to merely for the said omission.
15. In cases where best judgment assessments are required the GP additions etc shall be done in a reasonable way considering the GP figures accepted in previous assessments or the conceded GP of the traders in the same line of business in the locality. In case of the works contract assessment, the deemed sales turnover shall be fixed as per relevant rules.
16. The team shall not resort to any addition in turnover merely for the reason that there is an OR/CR case during the period where no offence has been identified.
17. While completing the assessments special care should be given to see that due credit has been given to the assesseees in respect of all the remittances made by them. No credit shall be disallowed merely on the ground that the concerned challans are not available in the file. In such cases credit shall be given based on the entries in the cheque register supported by a bank statement. The credit details should be verified before the hearing date and the dealer shall be informed of the missing credits, if any, sufficiently early, so that they can come with the required bank certificate at the time of hearing. In the case of TDS in respect of works contractors, credit shall be given based on Form 21C issued by the awarder, duly acknowledged by the concerned officer where the remittance has been made in offices other than that of the assessing authority. Where the remittance has been made by the awarders in bulk by a single cheque, a list of contractors in whose favour the remittance has been made shall also be obtained and filed.
18. In cases where best judgment assessments are required, pre-assessment notices shall be issued and reasonable opportunity to file reply shall be given.
19. No adjournments shall normally be given; however, it is left to the discretion of the team to give adjournments for genuine reasons to be recorded in writing.

20. Even though the assessment order shall have to be signed by all members of the team, the pre-assessment notices approved by the team need not be signed by all team members, and can be signed by any member on behalf of the team.
21. In cases of accepted assessments no elaborate assessment orders need be issued; orders can be confined to the minimum requirements. But in case of best judgment assessments the assessment order shall be a speaking one.
22. Separate assessment orders have to be issued for each year.
23. CST Assessments if any has to be simultaneously completed along with the KGST Assessment.
24. The assessing authorities shall keep the pending files ready with the credit particulars for handing over to the respective team constituted under the said section along with the last completed assessment file of such dealers. However the team shall have the authority to verify any previous files, if situation so warrants, and on getting requisition from the team, such files shall be immediately made available to the team by all concerned.
25. Some assessments may be finalized by the team accepting the books of accounts of the dealer.
26. In other cases, where a dealer is willing to accept a proposal arrived at by the team, the team shall communicate the proposal to the dealer on the spot and obtain his acceptance there on in writing, which shall be filed in the assessment file. Where an agreement cannot be arrived at, pre-assessment notice shall be issued and assessment finalized in accordance with law.
27. After finalizing the assessment, assessment orders shall be issued within seven days and the assessment records shall be returned immediately to the concerned assessing authority after dispatching the assessment order, and thereafter the assessing authority shall pursue coercive action for getting the demands realized.
28. Modification or revision of assessments done by the team that may arise pursuant to subsequent appellate orders shall be done by the concerned assessing authority himself. LAR/DP if any shall also to be dealt by the respective assessing authorities.
29. The Deputy Commissioners shall re-deploy sufficient staff for the smooth functioning of the teams.
30. The parameters fixed in the statute for the completion of assessment shall be applicable in all the cases of assessments completed under this method.
31. The intention of bringing such a provision is to complete all pending assessment within a period of six months adopting a flexible approach without any revenue leakage. The Deputy Commissioners shall schedule the programme in such a way that the objective is attained.

COMMISSIONER

To  
All Officers