

**CIRCULAR NO 22/2007**

Sub:- KVAT ACT 2003-Scrutiny of VAT Returns – Section 40 – violation in Local transactions- instructions issued – reg.

Section 40 of the KVAT Act,2003 is being be amended through the Kerala Finance Bill, 2007 to make it mandatory for a dealer effecting taxable sale in bulk quantities to furnish the name and address of the purchaser in the sale bills/invoices, and along with the TIN or PIN in case the sale is to a dealer, failing which such seller shall be liable for payment of tax on the difference of the maximum retail price and invoiced price of such goods.

But it is brought to notice that these provisions are not enforced in the field. In the case of 'F.O.R. shop'/'Van sale' transactions substantial billings are seen made regularly by local distributors/wholesale dealers to other dealers without TIN/PIN on the plea that the purchasing dealer's turnover is below the registerable minimum. Apart from the correctness of the address mentioned in such bills the genuineness of such claim is at doubt. The fact that most of such transactions are 'credit transactions' make it clear that the seller and purchaser have 'mutual acquaintance' and so the seller would be knowing the identity of the purchasers.

The concept of VAT envisages levy of tax at every point of value addition, and if goods are allowed to be passed on for a subsequent transaction that is not identifiable, the VAT chain itself may break, leading to undue enrichment to subsequent transactors and also loss of revenue to the State exchequer.

So a reasonable check is found to be imperative in this area for which the following instructions are issued:

The local distributors/wholesale dealers are statutorily bound to ascertain the TIN/PIN details of their customers and mention them in their sale bills/invoices. If a purchaser claims that he has no TIN/PIN since his total turnover is below the registerable minimum, the onus of proving that he has no registration liability shall be on the purchasing dealer. In such cases a declaration filed by such purchasing dealers clearly specifying their name, address and telephone number can be taken as bonafide document for permitting such transport.

The check post authorities and vehicle checking officers shall forward such details to the concerned Investigation Branch who shall conduct further investigation in the matter.

Where the selling dealer violates these provisions, or is found to have connived with the purchasers, security shall be demanded at 2 times the tax due on the MRP less the tax collected in the sale bill in accordance with sub section (2) of section 40 read with 47 of the KVAT Act.

All authorities below shall see that the instructions are implemented in toto.

COMMISSIONER

To

All Concerned.