

CIRCULAR No.23/08

Sub:- KVAT Act 2003 – Section 40 & 40A read with Rule 58(20) – Maintenance of accounts by electronic means- requirements – enforcement-instructions-issued

The Department has tried to take a progressive view of allowing Information Technology in accounting and billing by dealers in view of the advantages it offers by way of economies, transparency and speed of access.

Section 40 of the KVAT Act, 2003 read with Rule 58 requires dealers to maintain true and correct accounts and such other records showing such particulars as may be prescribed. Section 40A requires dealers to compulsorily issue a bill / invoice /cash memorandum for sale of taxable goods involving an amount of one hundred rupees or more. Rule 58(20) requires dealers maintaining accounts by electronic means to intimate the concerned assessing authority in advance along with the password for operating the electronic system.

Unfortunately it has come to notice that these stipulations are being observed more in the breach. Electronic Billing machines that re-start numbering every day erasing traces of bills issued earlier, inability of personnel in a business premises to give data immediately to the Department regarding stocks, sales and purchases and other relevant matters owing to data being stored outside the State or on systems without access rights for the Department has cast doubts on the credibility of data stored by electronic means.

VAT involves self-assessment by dealers, which requires the credibility of systems for billing and accounting to be of a high standard.

Monitoring of compliance is significant in bridging the gap between the tax due and the tax declared by the dealer.

Hence it is proposed to clearly lay down the obligations of dealers wishing to use IT for billing and accounting systems. A new proviso has been inserted by Finance Bill, 2008 in Section 40 that dealers shall be permitted to use electronic billing and accounting subject to such restrictions and conditions as may be prescribed.

Accordingly, it hereby made clear that dealers shall be permitted to use electronic billing and accounting systems subject to the following conditions:

- (1) Such dealers will intimate their assessing officer of the deployment of electronic billing and accounting systems. The fact of such deployment shall be indicated in the KVATIS in the Registration Module.
- (2) Such dealers will inform their assessing officer the names and addresses of their software developers and vendors. This shall be done when deploying newly developed software and for its subsequent customisation/modification, by whatever name called.
- (3) Such dealers shall maintain up-to-date documentation of the software and system deployed, with full disclosure of all methods of capturing data in their software and its operational flow, including all menus, in their principal place

of business in the State; the same shall be produced to the CTD officials on demand.

- (4) Software developers and vendors shall be liable to sell and deploy to dealers under the KVAT Act only software compatible with the provisions of the KVAT Act & Rules.
- (5) Dealers shall be liable to deploy only software that truthfully reflect their tax liability under the KVAT Act, 2003.
- (6) If in the course of any investigation it is discovered that the software deployed has induced, aided or abetted tax evasion, the software developer and vendors are liable to be proceeded against along with the dealer for the loss of revenue to the Government and shall be liable to be penalized under section 67 of the Act.
- (7) Such dealers shall give Administrator's UserID and Password for the software, database and systems in a sealed cover to their assessing officer before putting the system into use. Any changes in the Administrator's User ID and Password shall be similarly intimated to the assessing officer.
 - a. The system deployed by the dealer shall be such as to enable the Department to get all other UserIDs and their Passwords, using the Administrator's User ID and Password.
 - b. All additions/deletions and changes to the data should be possible only through the software after authentication by a valid UserID and Password.
 - c. While updating each transaction, the UserID of the updating user shall be recorded in the database.
 - d. UserIDs in the software that are no longer needed should only be made invalid and there should be no provision for deleting them.
 - e. The software deployed should have daily, weekly and monthly auto-backup facility and dealers shall be liable to submit these back-ups on demand to the Department.

If on inspection or verification the disclosures by the dealer in respect of the above matters are found to be untrue, the entire books of accounts are liable to be rejected and assessment of tax liability of the dealer done as per law.

- (8) The dealer shall provide necessary interface to the Commercial Taxes Department for administering (querying only) the database locally at the dealer's premise.
- (9) Electronic billing machines used by dealers in the State shall not have any option for re-starting numbering of the bills issued. Such machines if found deployed shall be liable to be seized for further investigation by the Department.
- (10) Unregistered dealers using electronic methods of billing and keeping accounts shall also be liable to follow the rules regarding these matters in the KVAT Act.
- (11) Dealers using electronic billing and accounting systems will have mandatorily to file VAT Returns electronically.
- (12) A true copy of all data captured in business establishments in the State shall be maintained in the business premises where it is captured regardless of where the server is hosted, and access to the same shall be made available to inspecting officers from the Department.
- (13) If at any time it is found that data stored by or for a dealer on an external device differs from that available in the approved system / database, then

the accounts of the dealer are liable to be rejected and assessments done as per law.

- (14) The Commissioner may from time to time cause verification of the software and systems deployed by dealers by any agency of his choice to ascertain the extent of compliance.

Consequential changes in the Rules are being effected.

All officers shall ensure that the above instructions are complied with.

Commissioner

To

All Concerned