

No C3.42034/03/CT

Office of the Commissioner
Commercial Taxes,
Thiruvananthapuram,
Dated:21-08-2007.

CIRCULAR NO.36/07

Sub:- Commercial Taxes Department-KVAT Act,2003- Procedure for Registration, filing of returns and payment of tax by Banks – instructions – issued –reg.

Read:- (1) Orders of Hon'ble Supreme Court of India dated 21-3-2007 in civil Appeal Nos. 6459 and 6460/2003 in Federal Bank Ltd and others Vs. State of Kerala

(2) Orders of Hon High Court of Kerala dated. 11.04.2000 in OP No. 1169 of 2000.

The Hon'ble Supreme Court in its judgment dated 21-3-2007 in Civil Appeal Nos. 6459 and 6460/2003 in Federal Bank Ltd and others Vs. State of Kerala and others has dismissed the appeals filed by the banks challenging the taxability of sale of pledged gold by the banks. In the result the judgment of the Division Bench of the Hon'ble High Court of Kerala that the impugned transactions are taxable has become final.

In the judgment cited 2nd above Hon'ble High Court of Kerala had interalia made certain observations regarding registration, filing of returns and payment of tax by banks. The Court has directed the Commissioner of Commercial Taxes to evolve appropriate procedure for filing of return and payment of tax by the banks avoiding hardship to the banks and financial institutions. It was also indicated in the judgment to permit filing of return and payment of tax on centralized basis by Head Office or Regional Office of the bank instead of requiring every bank branch to file returns and pay tax.

Section 15 of the KVAT Act casts a liability on the Banks who effect sale of pledged gold, bullion, gold coins etc. Further, section 53 of the said Act requires every Bank, including any branch of a Bank or any Banking institution in the State, to submit a return on all bills relating to goods discounted, cleared or negotiated by or through it. Rule 31 of KVAT Rules, 2005 prescribes that such returns shall be filed in form 11B on a quarterly basis and that Banks which do not have such transactions shall submit a nil return for such quarter.

In view of the above Court direction and statutory provisions the following instructions are issued.

- 1) The Regional Office(s) of every Bank having branches in the State of Kerala shall take registration under the KVAT Act 2003 from the Special Circle under whose jurisdiction such Regional

Offices are situated. In the current financial year this registration shall be taken before 30th September 2007. This shall be renewed every year before the 30th April.

- 2) All other banks and banking institutions, including cooperative banks and non banking financial institutions, shall take registration from the respective Special Circles under whose jurisdiction such banks/banking institutions function.
- 3) The application for registration shall be filed in Form 1H appended.
- 4) On granting registration the assessing authority shall issue the registration number as in the case of other dealers. The registration number will be the eleven digit numerals followed by the alphabet "**B**" which will be automatically generated from KVATIS.
- 5) The banks shall file returns in Form 10 in respect of sale of pledged gold, bullion, gold coins etc and in Form 11B in respect of all bills relating to goods discounted, cleared or negotiated by or through it.
- 6) The returns shall be filed on a quarterly basis. In the case of returns in Form 10 only the respective columns, which relate to the Banks need be filled.
- 7) The details of proof of remittance of tax due if any shall be attached to the returns.
- 8) The banks who have not yet remitted the tax if any on sale of pledged gold shall file returns and remit the due tax with interest within a period of one month irrespective of their taking registration under the KVAT Act, 2003.

All officers shall see that the above instructions are enforced strictly.

Commissioner

To

All concerned.

THE KERALA VALUE ADDED TAX RULES, 2005
FORM No.1H

Application for Registration of Banks under Kerala Value Added Tax Act, 2003

To

The Registering Authority

I(Name and Designation) on behalf of
.....(Name of Bank) whose particulars are given below hereby apply for
registration under the Kerala Value Added Tax Act, 2003.

This application is filed for the Head Office and/ Branches as detailed here under.

1	Name and full address of the applicant Bank	
2	Total number of Branches in the State	
3	Name and address of the Branches (Attach separate list if the space is insufficient)	
4	Whether doing business in bullion/gold coins etc	
5	Particulars of registration fee paid	
6	Any other information.	

DECLARATION

I hereby declare that I am authorized to file this application on behalf of the Bank and that the information furnished above are true and correct to the best of my knowledge and belief.

Signature
Name and Designation

Place
Date

(Seal)

FOR OFFICE USE ONLY

- (1) Date of receipt of application
- (2) Nature of Orders passed by the assessing authority
- (3) Registration Number, if issued
- (4) Date of issue of registration.

Signature
Name and designation of Registering Authority.