

No.C1-520/06/CT

Officer of the Commissioner
Department of Commercial taxes,
Thiruvananthapuram.
Dated 8-2-2007

CIRCULAR No. 4/2007

Sub:- KVAT Act, 2003 – New Instructions to Regulate Grant of Registration and Issue of Departmental Delivery Notes to Dealers in Live Chicken – issued

In the context of annulment of Kerala Tax on Entry of Goods into Local Areas Act, 1994 by the Hon'ble High Court, instances of transporting huge volumes of live chicken by dealers of dubious antecedents have come to notice. Preliminary enquiry conducted reveals that certain unscrupulous dealers have managed to get registration for dealings in live chicken in the name of benamies. Further, revival of defunct registration for dealings in live chicken are also brought to notice.

Even though procedure for registration was simplified, strict directions were issued to watch the activities of those dealers and to demand adequate additional security if the situation so warrants. But once registration is granted, no *post facto* enquires are seen conducted either by the assessing authority or by the Intelligence Wing. Some unscrupulous dealers have taken advantage of the situation and are practicing large scale tax evasion.

Therefore, in the interest of revenue, the following instructions are issued with regard to granting of registration for dealers in 'live chicken' and for regulating issue of departmental delivery notes to them:

- (i) All applications for registration shall be forwarded to the concerned Deputy Commissioner (Intelligence) for detailed enquiry. While conducting enquiry the Deputy Commissioners (Intelligence) shall satisfy themselves that the applicant possesses sufficient area in the declared place of business to store live chicken and the details of areas so possessed shall be recorded their report.
- (ii) No registration shall be granted without the written recommendation of the concerned Deputy Commissioner (Intelligence).
- (iii) The registration shall be granted only on furnishing adequate security.
- (iv) The assessing authority shall not issue the 'Form 15 delivery notes' in bulk to dealers who deal in chicken. Only one book shall be issued to the said category of dealers at a time; further, when a 'delivery note book' is issued, not more than five leaves shall be authenticated for use at a time, and that too should be done only after ensuring that the security furnished by the dealer is sufficient to cover the probable tax due on the transport of such number of consignments for which delivery notes have been authenticated.
- (v) Subsequent authentication shall be made by the assessing authority only after satisfying that tax in respect of the goods transported under cover of

those delivery notes which were already authenticated has been remitted by such dealers.

- (vi) When goods are transported from outside the state under cover of Form 15 delivery notes, the transport shall be direct and only to the place of business of such dealers; transport of goods from outside the state to places other than the place of business of the dealer shall not be permitted.
- (vii) The Intelligence Wing as well as the Audit Assessment Wing shall closely monitor the activities of these dealers and any acts, connivance or collusion for tax evasion on the part of such dealers noticed shall be brought to the notice of the assessing authorities, under intimation to the Commissioner. The assessing authorities in turn shall take immediate steps to cancel their registration following due formalities.
- (viii) While taking such proceedings against such dealers the assessing authorities shall invariably inform the details to all border check posts as well as to the Intelligence Wing with details of departmental delivery notes remaining with such dealers under intimation to the Commissioner.
- (ix) Any further consignments transported thereafter and those consignments transported in contravention of the above direction by such dealers shall be proceeded against under section 47 or 49 of the KVAT Act, 2003 as the case may be.
- (x) The assessing authorities shall themselves ensure that delivery notes are not issued to any dealers who are in default of filing returns or tax payment. In all such cases proceedings under section 67 shall be invariably be initiated.
- (xi) Since almost all of the dealers in live chicken do not have sufficient area in the declared business place to store more than two loads of Live Chicken and they do not have any permit u/s.19 of the Act for a travelling salesman, attempt of evasion of tax can be suspected at least in cases where tax is not paid in advance.
- (xii) Where the security furnished by the dealer is not sufficient to protect the interest of revenue considering his volume of business, especially in the context of certain dealers trying to transport goods without paying the tax in advance, additional security shall be demanded. If he does not furnish sufficient additional security or give an undertaking to the effect that he will pay tax in advance, action may be taken to cancel his RC.

The earlier circular instructions issued with regard to disposal of registration applications will stand modified to the above extent in the case of dealers in live chickens.

All Controlling Officers shall see that the above directions are strictly complied with in all offices under their jurisdiction.

Any supervisory lapse on their part will also be viewed seriously.

Commissioner

To

All Concerned