

CIRCULAR NO 40/2007

Sub:- KVAT Act, 2003-- Section 40 A – sale invoices – insistence on TIN/PIN details of Purchasing dealers – Dealers in cigarette sector - further instructions issued – reg.

Ref:- (1) Circular No 22/07/CT dated 21-5-2007 of Commissioner, Commercial Taxes.

(2) Circular No 39/07/CT dated 21-5-2007 of Commissioner, Commercial Taxes

As per Circular read as 2nd paper above instructions were issued with regard to the implementation of Section 40A of the said Act. Now the Cigarette Dealers Association, Kerala has represented on some practical difficulties faced by them in the light of the said Circular. It has been pointed out that unlike in other trades; there is a separate set of dealers in this sector, namely 'secondary wholesalers', whose margin is very meagre, namely 0.8% only. Due to the Circular instruction, these categories of dealers are showing reluctance to take stock from the distributors in Kerala and so the business is shifting to neighboring States.

On examining the marketing structure of the commodity it is seen that the goods are marketed by the supplier company as the 1st seller through less than 100 distributors who are the second sellers in the State. They sell 60% of their goods through 'secondary wholesalers' and about 40% through 'hawkers' who are self-employed. These categories have the status of 3rd sellers in this sector who get a margin of 0.8% only. It is through these categories that the retailers, which come to about 2 lakhs in number, mostly petty shops (pettikadas) who are below registerable limit, get the goods for retail sale to consumers.

There is no intention to take away the statutory rights enjoyed by the petty shops. Cracking down on the 3rd level of dealers will lead to shifting of trade and because of the easy transportability, large scale smuggling of goods from neighbouring States, as a result of which the State will lose revenue. The Cigarette Dealers Association, Kerala have agreed to pay tax due on the 0.8% margin allowed to the 3rd categories, i.e.; secondary wholesalers, by trade adjustments at their end; the State would be getting the tax due from the 3rd level of dealers also.

Considering the special nature of the trade in this commodity and the apprehended smuggling of goods, a lenient view is found to be required in this sector. In these circumstances the cigarette dealers are exempted for the time being from the purview of the Circulars read as 1st and 2nd papers above. However Form 8 invoices/ bills shall cover all dealer-to-dealer transactions with required details such as TIN/PIT and complete address. Form 8B will be confined to 'dealer-to-end customer' transactions only with the statutory requirement of complete address in cases where the bill value exceeds Rs. 5000/-.

The distributors shall furnish the full details of their sales to the Department every month along with monthly return.

The Circular No 22/2006 and 39/2007 stand modified to the above extent.

Commissioner.