

CIRCULAR No.44/2006

Sub:- Kerala Finance Act.2006- Amendments under KGST Act,1963 and KVAT

Act,2003– Payment of tax at compounded rate – Dealers in foreign liquor and cooked food–Instructions – issued –reg..

As per Kerala Finance Act, 2006 certain amendments were made in section 7 of the KGST Act and in section 8 of the KVAT Act, 2003 whereby certain changes were made in the provisions for payment of tax at compounded rate by dealers in foreign liquor and cooked food.

In this connection the following instructions are issued:

- 1) Compounding is an option to be exercised on a yearly basis. So the effective date of operation of this option will be from 1st April 2006.
- 2) As per the amended provision under section 7 of the KGST Act, 1963 any bar attached hotels other than star hotels of and above three star classification heritage hotel or club are, at their option, eligible to pay turnover tax on the sale of foreign liquor at compounded rate calculated at the following rates, whichever is higher:
 - (i) At 140% of the purchase value of liquor, in the case of business places situated within a municipal corporation or municipal council or a cantonment and at 135% in the case of business places situated at other places or
 - (ii) At 115% of the highest turnover tax payable for any of previous consecutive three years immediately preceding the year to which the option relates.
- 3) When an option for compounding under the above section is accepted, the assessing authority shall compute monthly tax liability worked out on an average basis, in accordance with item (ii) above. He shall then compare the said figure with figures worked out under item (i) based on the details conceded as per the return. The tax payable for a month will be the higher amount so worked out. This will be subject to revision based on the annual figures.
- 4) In respect of the dealers who had not opted for compounding during 2005-06 and are now opting for compounding for the year 2006-07, the value of closing stock of foreign liquor held by such dealers as on 31/3/2006 will have to be considered for the purpose of computing the compounded tax liability under item (i) above.
- 5) There are some cases where option of dealers for compounding for the year 2006-07 in accordance with the pre-amended provisions of the Act were filed and accepted; such dealers will be eligible to pay tax in accordance with the pre-amended provisions only upto 30-6-2006 since there would be no 'promissory estoppel' against statute. These dealers may opt for the new compounding system in accordance with the amended provisions effective from 1-7-06 by filing fresh option.

- 6) As per the amended provision under section 8 (c) of the KVAT Act, 2003 any bar attached hotels other than star hotels of and above three star classification, heritage hotel, or club can opt to pay tax on the sale of cooked food at compounded rate worked out at the following rates, whichever is higher.
 - (i) At 15% of the turnover of foreign liquor estimated under section 7 of the KGST Act, 1963 or
 - (ii) At 115% of the tax paid or payable under the KGST Act,1963 or KVAT Act,2003 in respect of the highest turnover for the previous consecutive three years immediately preceding the year to which the option relates
- 7) If on a subsequent date the tax payable by a dealer who had opted for payment of tax under the above section is revised by virtue of an appellate order or an assessment order, the compounded tax payable shall be based on the revised tax liability fixed as per such orders
- 8) Dealers in cooked food covered under sub clause (i) of clause (c) shall continue to be eligible to pay tax at compounded rate, at their option, at half percent of the turnover of cooked food and beverages prepared by such dealers.
- 9) By virtue of provisions of the Kerala Finance Act, 2006 such dealers are entitled to pay tax at half percent on the turnover of other goods in respect of which such dealer is not a dealer effecting first taxable sale.
- 10) Options may be filed on the letter head of the dealer.
- 11) The last date for filing application for compounding for the year 2006-07 will be 30th of November, 2006.

All officers are directed to see that the above statutory provisions and instructions are strictly complied with.

COMMISSIONER

To.

All Officers

Copy to

Website.