

CIRCULAR No 17 / 2016

Sub:- Para 262 of the Revised Budget Speech, 2016 – Sec.25E introduced in the KVAT Act vide Kerala Finance Bill, 2016 of the Fourteenth Kerala Legislative Assembly – Amnesty Scheme for presumptive dealers – Operational instructions issued – reg.

Ref:- Kerala Finance Bill, 2016

There are around 30,000 PIN registered dealers in Kerala in the year 2015-16. They are eligible for payment of tax at 0.5% subject to the conditions laid down in Sec.6(5) of the Kerala Value Added Tax Act 2003. It is a settled position in fiscal statute that in order to avail special rate the dealer is liable to comply with the relevant provisions of the Act and Rules strictly. But, scrutiny of the returns and purchases furnished by these dealers revealed that more than 20,000 dealers are not conceding the entire transactions and resultant sales in their returns so as to keep the turnover below 60 lakhs. Their actual turnover would be more than Rs.50/Rs.60 lakhs. Therefore, they are not entitled for payment of tax @ 0.5% on their turnover. In the circumstances, notices were issued to such dealers proposing to assess the turnover at the schedule rate of tax on the purchases suppressed and also penalty notices were issued under Sec.22(7) of the Act at thrice the amount of tax due. Considering the request from the various trade organizations pointing out the severity of the burden of huge penalty and tax, a new amnesty scheme was introduced by the Government through finance bill 2016.

1. As per this Amnesty Scheme, the dealer has to pay tax at scheduled rate on the unaccounted purchases with 5% gross profit. If such payment is made, all penalties and interest, including penalty under sub-section (7) of Sec.22 of the Act shall be waived.
2. As per the amnesty provision, such dealers can opt to settle the arrears or dues for the period up to 2015-16.
3. There shall not be any refund subsequently for the dues settled under this scheme in any circumstances.

The following categories of Dealers are eligible to opt under this Amnesty scheme:

1. The Registered Presumptive Tax Dealers who have suppressed transactions detected by the Department.
2. The Registered Presumptive Tax Dealers who have suppressed transactions and voluntarily applying for amnesty.
3. The unregistered Dealers but liable to get themselves registered under the Act who have suppressed transaction and now voluntarily applying for amnesty.

The eligibility for opting under this scheme is as follows:-

1. The applicant should obtain TIN registration w.e.f. 01-04-2016.
2. All pending cases in any appellate / revisional forums or any court of law shall be withdrawn before filing option. They will adduce the evidence of the same along with the application.
3. The option shall be for settling the arrears related to all financial years in which unaccounted transactions were detected.
4. Presumptive Tax dealers against whom unaccounted transactions were unearthed by the respective Assessing Authorities during the period up to 2015-16 and the same were settled completely by remitting the tax and penalty shall not be eligible to opt under this scheme.
5. The dealer shall voluntarily declare the unaccounted transactions where the Assessing Authority had not detected the same before filing this option.
6. Unregistered dealers may voluntary declare the unaccounted transactions and opt for the amnesty scheme.

The process:

1. The dealers eligible under this scheme shall file the option on or before 30-11-2016. The option shall be filed in **Annexure – I** attached to this circular.
2. On receipt of the option, the Assessing Authority shall intimate within four weeks, by order in Annexure – II, the amount to be remitted under this scheme.
3. 30% of the settled amount shall be paid within two weeks from the date of receipt of the intimation from the assessing authority in **Annexure – II** and the balance in lump-sum or in 12 equal monthly installments at the option of the dealer within such period.
4. All Assessing Authorities shall validate the disclosures with the data available and by giving opportunity to the Presumptive Tax Dealers and arrive at the conclusion.
5. All Assessing Authorities shall maintain a register in this regard in **Annexure – III**.

All the above instructions related details may be referred to in the Kerala Finance Bill, 2016. The instructions issued above will be subjected to amendments and validations, if any, that may be made in this Bill provisions by the Legislature, when Kerala Finance Act, 2016 will become final.


COMMISSIONER

Annexure – I

[Option to be filed by the dealer under Sec.25E of KVAT Act]

From The name of dealer
 PIN

To The name of the assessing authority

Sir,
I hereby opt to settle the cases against me under Sec.25E of the KVAT Act. The details of which are furnished hereunder:

Part – A

[to be filled by dealers where assessment has already been completed or notice has already been issued proposing the assessment]

1	Assessment year for which option is submitted						
2	Tax rate	0%	1%	4% / 5%	12.5% / 13.5% /14.5%	Other (Specify tax rate)	Total
(a)	Actual suppressed purchase turnover detected by assessing authority						
(b)	Gross profit estimated by Assessing Authority						
(c)	Sales turn over suppression if any						
(d)	Total suppressed turn over (a+b+c)						
(e)	Addition to turnover proposed / ordered.						
(f)	Estimated total turnover (d+e)						
(g)	Tax determined						
(h)	Total penalty imposed / proposed.						
(i)	Interest						
(j)	Total demand						
(k)	Disclosure by Dealer regarding unaccounted transactions other than mentioned above if any						
3	Details of pending appeals / WPCs filed						
(a)	Assessment year						
(b)	Name of the appellate authority / Court						
(c)	No. of appeal						
4	Details of conversion of PIN registration to TIN :						
(a)	New TIN number allotted						
(b)	Details of closing stock as on 31-03-2016						

Part – B

[To be filled in by dealers where notices has not been issued by the assessing authority or where the PIN dealer is voluntarily declaring his unaccounted transactions]

1	Assessment year for which option is submitted						
2	Tax rate	0%	1%	4% / 5%	12.5% / 13.5% /14.5%	Other s (Specify tax rate)	Total
(a)	Suppressed turnover voluntarily declared by the PIN dealer						
2	Details of conversion of PIN registration to TIN :						
(a)	New TIN number allotted						
(b)	Details of closing stock as on 31-03-2016						

Part – C

[to be filled in by unregistered dealers voluntarily disclosing unaccounted transactions]

1	Assessment year for which option is submitted						
1	Tax rate	0%	1%	4% / 5%	12.5% / 13.5% /14.5%	Other s (Specify Tax rate)	Total
(a)	Suppressed turnover voluntarily declared by the unregistered dealer						
2	Details of TIN registration:						
(a)	TIN number allotted						
(b)	Details of closing stock as on 31-03-2016						

Declaration

I hereby declare that the above information submitted are true and correct.

Date:
Place:

Signature of the dealer / authorized signatory

For Office use only

- (01) Date of receipt of application;
- (02) Whether the application for conversion of PIN to TIN has been received, details thereof;
- (03) Whether appeals in any forum has been withdrawn by the assessee, details thereof;

Assessing Authority

Annexure – II

[Order of the Assessing Authority under sub-section (3) of Sec.25E of KVAT Act]

Office of the
Address.....

PIN No.....

Order No.....

Dtd.....

(01) In pursuance to your option No.....dtd..... for settling the cases of unaccounted purchases under Sec.25E, your tax liability for the year(s),,,, is calculated as below:

[Add separate tables for each year]

	Year	Turnover Taxable at					Total
		0%	1%	4% / 5%	12.5% / 13.5% /14.5%	Other (Tax rate)	
(a)	Actual suppressed purchase turnover detected by Assessing Authority						
(b)	Suppressed purchase turnover voluntarily declared by Dealer						
(c)	Total suppressed purchase turnover (a+b)						
(d)	Gross profit @ 5% (c x 5%)						
(e)	Total estimated turnover (c+d)						
(f)	Suppressed sales turnover						
(g)	Total suppressed turnover (e+f)						
(h)	Tax payable under Amnesty scheme						

(02) Accordingly, your total tax payable under option for settling the cases under this Scheme is as under:

Year	
Year	
Year	
Year	
Total tax payable under option	

Assessing Authority

To

The PIN dealer address
Copy to Assessment files

Annexure – III

Register for Sec.25E of KVAT Act

PIN No.							Name & Address			
Year	Date of receipt of application	Cases where assessment and penalty has been completed before option					Amt. determined under option	Amt. adjusted to the option from column No.5	Amt. to be paid under option	Date of last installment
		Order No. & Dt.	Total demand	Paid	Payment particulars - Chalan No. & Date	Balance to be paid as on the date of option				
1	2	3	4	5	6	7	8	9	10	11
2010-11										
2011-12										
2012-13										
2013-14										
2014-15										
2015-16										
Total										

Particulars	Amount	Payable by date	Details of payment made			
			Name of Treasury	Chalan No.	Date	Amount
30% of the total tax						
1st Installment						
2nd Installment						
3rd Installment						
4th Installment						
5th Installment						
6th Installment						
7th Installment						
8th Installment						
9th Installment						
10th Installment						
11th Installment						
12th Installment						