

Circular No. 30/2015

Sub:- CTD - KVAT Act & Rules – condonation of delay in filing the appeals and observation of the Hon'ble High Court of Kerala-reg:

Ref:- Order in OP (Taxes) Nos. 01/15, 2/15, 4/15 to 8/15 dtd 16.10.2015 of the Hon'ble High Court of Kerala.

While considering the appeal filed by the State against the dismissal of delay petitions filed before the Tribunal, the Hon'ble High Court heard the matter and passed an interim order dated 16.10.2015 with the observation that “ we are sure that the learned Tribunal cannot be criticised of having taken the pain of writing an order with reference to precedent law to show that the applications seeking condonation of delay were so superfluous and did not contain any material worth acceptance and had not shown cause much less any sufficient cause for condonation of delay. We have gone through the affidavit filed before the Tribunal in all these cases. Primarily, they show that they were prepared in a mechanical manner as if the Tribunal had to find out its reasons to condone the delay. The Tribunal was justified in penning the impugned orders in the manner in which it has done, since such orders by the Tribunal would really send a word of caution to those in the Department who deal with public revenue to be more cautious in such matters. In the casual manner in which affidavit and pleadings are placed by persons dealing with Government matters; more importantly, those dealing with public funds and exchequer including the public revenue; ought to be cautious to the exceptional extent, which is expected from them in view of the duties and responsibilities attached to such Government offices”.

As per the provisions of the KVAT Act the time limit prescribed for filing second appeals before the Tribunal is within 60 days from the date of receipt of the first appellate order from the Deputy Commissioner (Appeals) and appeal before the Hon'ble High Court is within 90 days from the date of receipt of the Tribunal decision. Instructions were already issued in this matter but the lower authorities are not cared to comply the directions issued properly.

In the above order the Hon'ble High Court seriously criticised that the Department had miserably failed to give any acceptable and cogent reasons sufficient to condone delay in filing 2nd appeal. The careless and irresponsible attitude of the officers in filing application for condonation of delay should not deprive the revenue of the State and there by the very purpose of the assessment completed will be defeated.

In the circumstances all the concerned officers are directed to ensure that the second appeals before the Tribunal and the appeals before the Hon'ble High Court should be filed within the time limit prescribed as per the provisions of the KVAT Act . Laxity if any in this regard will be viewed seriously and the assessing authority and the controlling officers will be held responsible for the lapse. All the controlling officers shall verify the register of appellate orders once in a month during their visit to the Sub Offices and to ensure that timely action has taken in all appellate orders properly.

All controlling officers shall see that the above directions are strictly complied with by all officers under their jurisdiction and forward a monthly report along with the monthly diary to this office.

Sd/-
COMMISSIONER

To

All Deputy Commissioners/ Deputy Commissioner (Int.)/ Law Officers.