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Office of the Commissioner
Commercial Taxes
Thiruvananthapuram
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Sub: - KVAT Act, 2003- demand of security in connection with registration of dealers- Reg:

Section 17 of the KVAT Act, 2003 permits the registering authority to demand security from a dealer applying for registration. This power is discretionary. The quantum of the security so demanded shall not exceed one half of the tax payable on the turnover of the dealer for the year as estimated by the authority. The authority is also expected to give an order in writing for the demand of security.

2. Rule 19 of the KVAT Rules 2005 permits the dealer to furnish security in any of the modes prescribed by sub-rule (2) thereof.

3. It has come to notice that many of the registering authorities honour the above statutory provisions more in their violation than in their compliance. The general complaints raised by the traders are that written order demanding security deposit is not being issued, the amount of security demanded is not in conformity with the statutory provisions and that the officers accept security only if it is furnished as a security bond in Form No. 6, with sureties.

4. The power to demand security is discretionary. So, before demanding security, the authority concerned should enter into a finding whether security is to be demanded or not. Where the registering authority is satisfied that the dealer is not likely to default payment of tax, the authority will be justified in granting registration even without furnishing security. In such cases it should record the reasons for arriving at such a conclusion and the evidences relied on by it. If it is decided to demand security, it should be only through a written order. After the grant of registration, if the registering authority/assessing authority has reasons to believe that the dealer is likely to default tax, sub-section (1) of section 17 permits the registering authority to demand security, and where the security already furnished under sub-section (2) is found to be low, the authority concerned is empowered to demand additional security under the proviso to sub-section (2). So, whether the registration is granted after furnishing security or not, the assessing authority should closely

follow up cases of new registration and ensure that the dealer pays the tax due under the Act promptly. In cases where the assessing authority finds that the dealer is likely to default payment of tax or other amount due, it should bring the matter to the notice of the registering authority and see that security or additional security as the case may be is demanded under sub-section (1) or the proviso to sub section (2) of section 17 wherever necessary.

5. The officer should also exercise his discretion properly while fixing the amount of security. If the turnover reported by the assessee is found to be not acceptable to the registering authority, such authority will be justified in estimating the turnover to assess the quantum of security. But such estimate should be only for justifiable reasons, which shall also be specified in the order demanding security. The amount of security demanded, in cases where such security is found to be necessary, shall not in any case exceed fifty percent of the tax so estimated for one year.

6. The law permits the dealer to choose the form of security from among the various forms prescribed under sub rule (2) of Rule 19. The officer cannot insist that the dealer should furnish the security only in a particular way.

7. The officers are also duty bound to see that the applications for registration is disposed of within the time limit prescribed by law.

8. All officers are therefore directed to follow the law in its letter and spirit and see that no unnecessary difficulties caused to genuine dealers. The supervisory officers shall verify the records relating to grant of registration and see that these instructions are scrupulously followed. Violations, if any, shall be reported for appropriate action.

Sd/-
Commissioner