

No.C1.32225/04/CT

Office of the Commissioner
Commercial Taxes
Thiruvananthapuram
Dated. 24.10.05.

CIRCULAR No.28/05/CT

Sub:- KGST Act 1963- Completion of Assessment- observance of principles of Natural Justice- Instructions issued- Reg:

It came to the notice of the Commissionerate that certain assessing authority are completing the assessments under sub-section (3) of section 17 or under Section 19, as in the case may, of the Kerala General Sales Tax Act without affording reasonable opportunity to the assesses/dealers to file replies to the pre-assessment notices and also denying opportunity of personal hearing which is highly irregular and violation of principles of natural justice. Such assessments are found to be not legally sustainable in appellate review leading to the interference of appellate authority which ultimately results in delay, if not loss, in realizing the due revenue to state exchequer. Most of such instances are noticed in the case relating to the finalisation of time barred assessments. While finalising assessments the assesses/dealers have to be provided with reasonable time to file objections to the pre-assessment notice, if any, and also have to be given opportunity of being heard in person, if they so desire. The rule of natural justice 'audi alteram partem' will be violated in substance and content of reasonable opportunity is not afforded. So denial of the aforesaid requirements tantamounts to violation of natural justice, which naturally calls for interference by appellate authorities, thereby the very purpose of completing assessment will be defeated.

Some assessing authorities are completing time barred assessments in the fag end of the financial year in a hasty manner without following the procedures prescribed in finalising assessments. Instructions were already issued to locate the details of time bar assessments during the month of April itself, in the respective assessments years. There is no justification of deferring finalisation of such assessments to the fag end of the year and creating circumstances compelling the assessing authorities to deviate from the prescribed procedure merely to comply with the statutory requirement is observance of procedures prescribed thereon. This the assessment completed without following the procedures prescribed thereon including observance of the

principle of natural justice will not be legally sustainable which naturally calls for appellate interference at the assessments will render the respective assessee. Dealers a chance to dealer,if not escape from, due payments which are otherwise legally sustainable.

The assessing authorities are therefore directed to comply the principles of natural justice in all cases and the dealer/assessee must be given opportunity to explain and rebut the issue as well as be given real and reasonable opportunity to be heard.

In these circumstances all assessing authorities are directed to take steps to complete all time barred assessments effectively before 31st day of the month of December of the respective assessment years. While completing all assessing all assessment, the assessing authorities should see that all procedures prescribed in this regard, including observance of natural justices, are strictly complied with.

The Deputy commissioners shall take stock of the position during monthly review meetings and see that the directions are strictly complied with.

The receipt of the circular shall be acknowledged.

Sd/
Commissioner

/By Order/

Deputy Commissioner (General)

To

All Deputy Commissioner