

153. Sir, I now turn to tax proposals.

**Tax Arrears**

154. Khadi and Village Industries Units with turnover less than Rs.50 lakhs had been exempted from KGST while Units with turnover exceeding Rs.50 lakhs had been given a concessional tax rate of 4% from 1-4-2000 to 31-3-05. However, these concessions had not been given to them in respect of CST dues. It is proposed to waive interest on all pending arrears of CST and KGST dues of such units for this period and to permit them to remit the outstanding arrears in 60 equal monthly instalments.

155. Sir, as per figures of 31-12-2007 the Commercial Taxes Department has around Rs.4,280 crores of arrears. Of this around Rs.1,900 crores are stayed by various courts and other appellate forums and around Rs.1,600 crores are dues of various PSUs. As per the present state of affairs it would take at least ten years to collect all these dues. One is not even sure whether Government will ultimately win all those cases. It is essential to dispose off all these cases if officers are to be able to give all their attention to VAT. Hence I propose to announce an amnesty scheme as in Tamil Nadu, Andhra Pradesh, Maharashtra and Bengal. This will be a scheme for disposing off arrears of all taxes collected by the Commercial Taxes Department.

- For arrears of the assessment years up to 1990-91, if 75% of the principal is remitted, all interest and penalty and 25% of the principal amount shall be waived.
- For the arrears of the assessment years between 1991-92 and 1995-96, if 100% of the principal is remitted, all interest and penalty shall be waived.
- For the arrears of the assessment years between 1996-97 and 1999-2000, 100% of the principal and 5% of the interest and penalty will have to be remitted.
- For the arrears of the assessment years from 2000-2001 to 2004-05, 100% of the principal and 10% of the interest and penalty will have to be remitted.
- In cases where principal has already been remitted and only interest remains, 10% of the interest only need be remitted.

Defaulters desiring to settle their cases under the scheme will have to apply in the prescribed form to the assessing authority before 30-6-2008. They will have to remit 25% of the amount within 15 days of receipt of orders from the assessing authority and the balance in three equal monthly instalments from the next month. Revenue Recovery action will be withdrawn in these cases and collection charges shall be waived. The benefit under the scheme will also be available to defaulters with cases in appeal and revision in the courts and other appellate forums. Both Government and the defaulters shall withdraw the appeals, revisions and other cases relating to these matters before final orders are passed under the scheme in respect of their case. However, where assets of the

defaulters have been attached under the Revenue Recovery law, the settlement shall not be at a lower value than that of the asset attached.

### **Assessment Arrears**

156. Hon`ble Members will recall that a fast track assessment adalat system had been brought in to settle the arrear cases. We have been able to complete assessments in 23,550 cases and collect Rs.11.80 crores under the system. As part of this we had disposed off 4,188 cases and collected Rs.4.34 crores at a Mega Adalat in Ernakulam on 22-11-2007. There is a balance of 27,800 cases remaining to be disposed off. It is proposed to dispose off these cases this year itself on the Ernakulam model by further simplifying procedures. The following norms shall be adopted for assessment in these cases:

- Where statutory forms have not been submitted, or forms misused and tax not remitted or only partially remitted, tax due will have to be remitted.
- In cases where compounding fee or penalty has been imposed in cases of tax evasion, amount equal to tax evaded, or where pattern of suppression has been proved, amount not exceeding three times the tax evaded with reference to the period of suppression shall be levied.
- Where the tax evaded cannot be quantified, assessment will be completed on an addition equal to 5% of the taxable turnover conceded in the return. This shall be subject to a minimum tax of Rs.5000/- and a maximum of Rs.1 lakh.
- In case of Works Contract which have been compounded where returns and TDS Certificate are produced, assessment will be completed accepting the awarder's certificate.
- In Works Contract cases not under compounding, where returns and statement of accounts have been filed, the assessment will be finalized determining additional tax liability at 20% of tax paid subject to a minimum of Rs.10,000/-.

Interest and penalty will be waived in all these cases as per pre-Para.

157. The period for completion of assessments, including re-assessments and modified assessments on the basis of appellate orders, under KGST Act for the period up to 2003-04 is proposed to be extended by one more year.

158. The period for completion of CST assessments for the year 2005-06 is proposed to be extended by one year.

### **Simplification of Procedures**

159. The VAT Act does not permit amendment in VAT rates with retrospective effect. Consequently it has not been possible to give effect to some of the promises made by Government. It is therefore proposed to amend Section 93(1) of the KVAT Act to permit reduction of rates through notification with retrospective effect.

160. The Sales Tax Appellate Tribunal has five benches in different parts of Kerala. It is proposed to provide this facility to the VAT Tribunal also.
161. It had been declared on 13-11-07 that dealers who voluntarily come forward to take registration between 15-12-07 and 31-12-07 would be given some benefits with retrospective effect. It is proposed to give statutory cover for this declaration and also to extend the validity of the scheme till 31-3-08.
162. It is proposed to clarify in the statute that the exemption given on 1-5-2007 will apply to all types of coconut oil.
163. There is some disquiet among trade regarding the treatment of credit notes. It is proposed to amend the KVAT Act to make it clear that credit notes that do not affect input tax credit will be permitted. It will be further clarified that reimbursement of expenses in the trade through credit notes will not affect the tax liability of the dealer.
164. The KVAT Act requires option for composition of tax and applications for refunds to be filed by certain dates. It is proposed to effect necessary amendments to permit the District Deputy Commissioners to condone delays for good and sufficient reasons. In the case of refunds, delays may be without time limit, while for compounding, delays may be condoned up to 31-12-08 for pending cases.

### **Compounding Gold**

165. Efforts are being made to increase the contribution from the Gold Jewellery sector. Rs.97 crores has been collected in 2006-07 as against Rs.21 crores in 2005-06. This is a record increase. This figure of Rs.97 crores has been exceeded in January itself of this financial year, but this has to increase further. It is proposed to further simplify the compounding scheme to attract more dealers to compounding.
166. Dealers who have not yet compounded till now will be permitted to compound at 150% of the highest tax paid or payable by them as per return or accounts for the last three years. In case a dealer has not been in existence for three years, he may compound at 150% of the highest tax paid or payable for a financial year he has transacted business. In case a dealer has transacted business for less than a year, he may compound at 150% of the tax paid or payable for the period duly annualized. Dealers opting for compounding shall compulsorily compound all their outlets excluding branches started in the current year. Compounding for branches started in the previous year after the commencement of the financial year will be done after annualizing the tax paid or payable. Compounding for a branch commenced in the current year shall be additionally determined as the average of the compounded tax payable for the principal business place and branches existing in the previous year. However, option to compound shall not be rejected on the ground that a dealer has not opted for compounding a branch commenced in the

present year. Where a dealer has compounded for the first time in 2007-08 and if the tax payable in 2006-07 as per return or accounts is less than the output tax, the compounded tax liability for 2007-08 will be notionally re-determined on the basis of output tax as stated above for determining the compounded tax liability for 2008-09. Dealers under compounding last year will be permitted to compound at 115% of the tax paid last year, or on the basis of the re-determined tax as stated above.

167. Applications for compounding may be rejected and orders given for compounding may be cancelled for good and sufficient reasons with the prior approval of District Deputy Commissioners. Good and sufficient reasons will include shifting of place of business, holding of stock exceeding double the quantity held in the previous year, failure to submit information demanded, furnishing false information. These orders will be appealable to the Tribunal. It is proposed to introduce amendments for the same.

### **Works Contract**

168. It is proposed to simplify the provisions for compounding for Works Contracts.
- The negative list will be omitted.
  - It is proposed to permit contractors with CST registration to compound at 8% and those without such registration to compound at 3%. They will be exempted from paying purchase tax under Section 6(2). These rates will not be applicable to works awarded by Government of Kerala, KWA and Local Bodies. The existing rates will continue for them. It is estimated that this measure will fetch us an additional Rs.10 crores.
169. It is proposed to permit deduction of sub contract amount of registered sub contractors from the turnover of the registered contractor.
170. It is proposed to stipulate the rate of tax deducted at source by awarders for works contractors as below:
- As per the tax liability certificate, if produced.
  - 4% for contracts awarded by Government of Kerala, KWA and Local Bodies.
  - 8% in case of registered contractors and 10% in respect of unregistered contractors.
171. It is proposed to extend the facility of set off VAT paid against Stamp Duty to the tax paid by the sub contractors also.

### **Bar Hotels**

172. Bar Hotels have been permitted to compound tax on cooked food, but this facility is available now only to foods and beverages prepared by them. It is proposed to bring packaged water and soft drinks procured from registered dealers also within the ambit of compounding.
173. Compounding of tax for cooked food for Bar Hotels is linked to their sales turnover of liquor. However, even dealers paying tax at compounded

rates on liquor have not opted for this scheme. Hence it is proposed to allow these dealers to compound at 125% of the highest tax paid or payable in the immediately preceding three years without any link to the turnover of liquor.

### **Tax Concessions**

174. Some States have reduced the tax rate on ATF to 4%. Therefore it is proposed to reduce the tax rate on ATF to 4%. It is hoped that this concession will be passed on by the airlines to passengers.
175. Sir, I share the concern of this august House for a sustainable environment. It is proposed to exempt paper bags from tax. It is also proposed to increase the tax on plastic carry bags to 12.5%.
176. The rate of tax on generators, computer peripherals and certain hospital equipment had been reduced to 4% through executive instructions from 22-10-2007 to prevent trade diversion. It is now proposed to effect amendments in the statute accordingly. It is also proposed to extend this benefit to all kinds of hospital equipment.
177. It is proposed to exempt works contract by way of sculpting statues of National Leaders and Social Reformers from tax.
178. It is proposed to exempt the sale of Prasadam and sale of goods received as offerings from devotees by the Devaswom Boards from tax.
179. It is proposed to amend the provisions of the statute to align it with the stipulation that tax rate on declared goods shall not exceed 4% and exclude declared goods from the purview of Section 6(1)(f).
180. Hon`ble Members will recall that Khadi & Village Industrial Units processing lime shell had been exempted from tax. But this has brought tax liability on subsequent purchasers from them. It is proposed to exempt the subsequent purchasers from purchase tax liability for the period up to 31-3-05 subject to the condition that goods manufactured out of this are liable to tax under KGST Act or CST Act.
181. With reduction of CST rate, manufacturing units in Kerala supplying items to KSEB, KWA, KSRTC will face tough competition from interstate dealers. Hence it is proposed to reduce the tax on all items supplied to KSEB, KWA and KSRTC manufactured in Kerala other than petroleum products to 4%. The concession already given to the Railways last year will be aligned with this.
182. It is proposed to extend the reduction in tax rate to 4% for cashew to roasted and salted cashew nuts, cashew soup, cashew vita, cashew powder, and cashew bits.
183. Used Cars are being taxed at 4% on their value. This is driving the trade back into the unorganized channels. Hence it is proposed to reduce the tax rate on sale of used cars to 0.5%.
184. It is proposed to reduce the tax on the following items to 4%:
- *Aldrops*, pulley and clamps
  - Rainguarding compounds
  - Flavours and Aromatic compounds

- Tarpaulin including silpaulin
  - Machine tools
  - All Printing Machinery and Lathes, and parts thereof
  - Municipal Solid Waste Management Equipment and Plant
  - All Cycle Parts, with effect from 1-4-05
  - Rugs, mats and carpets made of handloom and cotton
  - All types of hangers
185. Restaurants other than bar hotels, star hotels and flight kitchens used to enjoy a basic exemption of up to Rs.5 lakhs under the KGST Act and had to pay a licence fee of only Rs.500 per lakh without limit on the turnover. There was no option required for this facility. But under the KVAT Act these dealers are liable to be assessed at 12.5% or compound at 0.5% subject to liability under Section 6(2). For compounding these dealers have to file option in April every year. But small hoteliers had not filed their options in time. To protect their interests, Government had given an opportunity to them to file option for compounding with retrospective effect. It is proposed to amend the Act to give statutory cover to this scheme. It is proposed to permit hoteliers eligible for compounding to file option with retrospective effect up to 31-12-2008.
186. It is proposed to reduce the tax rate for dealers in cooked food eligible for compounding to 4%.
187. Mobile Recharge Coupons are proposed to be exempted from tax with effect from 1-4-05.
188. It is proposed to exempt items manufactured by Kerala Federation of Blind like chalk, umbrella, candles and book binding from tax at the point of sale by such manufacturing units.
189. It is proposed to exempt the film industry from levy of VAT on right to use and on copyrights with effect from 1-4-2005. Some other States are levying these taxes. There is widespread concern that such a levy may adversely affect the film industry in Kerala. It is to protect the industry here that this proposal has been put forward.
190. The loss of revenue estimated on account of all the above tax concessions is Rs.25 crores.

### **New Tax Proposals**

191. Sir, the social security schemes announced in this Budget will create a huge financial commitment. There is every likelihood that this will increase in the next three years. To meet this expenditure it is proposed to impose a 1% cess on taxes like Sales Tax and VAT levied by the State Government. It is hoped to raise Rs.100 crores through this measure.
192. Imposition of additional levies on the big chains coming into the retail sector has been demanded by almost all sections of society. It is proposed to impose a surcharge of 10% under the Kerala Surcharge on Taxes Act on the big retail chains, including on direct marketing chains, who import more than 50% of goods from outside the State, whose turnover exceeds Rs.5 crores per annum and 75% of whose sales are

directly to consumers. Purchases from first sellers who are sister-concerns will be deemed to be an import of such retail chain. It is expected to raise Rs.2 crores additional resources through this measure.

193. It is proposed to impose 10% tax under the Kerala Tax on Luxuries Act on rooms in hospitals where the daily rent is Rs.1,000/- or more, regardless of the manner in which the amount is billed. This measure is expected to generate additional resources of Rs.1 crore.
194. It is proposed to increase the tax on ordinary draws to Rs.7 lakhs and on bumper draws to Rs.17 lakhs under the Kerala Tax on Paper Lotteries Act. This is expected to generate an additional Rs.25 crores.
195. It is proposed to amend the KVAT Act to limit the set off of input tax and refund given on interstate stock transfers to the amount in excess of 4%. This measure is expected to generate an additional revenue of Rs.50 crores.

### **Incentives to Trade**

196. Action is being taken to finalize the awards for assesseees that had been announced in the last Budget. The awards will be announced shortly, and the awardees will be given green cards.
197. Computerization is proceeding apace in the Commercial Taxes Department. It is proposed to provide for assesseees filing returns electronically to download statutory forms subject to conditions.
198. I look to the trade organizations and Chambers of Commerce for co-operation in helping assesseees to file returns electronically. It is proposed to initiate a scheme to provide a computer each to these organizations for this purpose.
199. The Traders Welfare Board is being re-constituted. All pending compensation claims in respect of deceased members have been settled.
200. The Traders Welfare Board will be launching a drive to increase its membership and to extend better facilities to all its members.
201. The State-level VAT Consultative Committee will be reorganized. To make its functioning more effective it is proposed to have an Executive Committee which can meet more frequently.
202. I am happy to inform the House that the District Level Advisory Committees are meeting regularly on the 2<sup>nd</sup> Wednesday of the month. Any issues not sorted out at their level will be taken up at the State Level Committee for a solution.
203. It is proposed to introduce a fast-track provisional registration procedure for industrial units in the State.

### **Miscellaneous**

204. The KVAT Act permits an assessee to revise his return five times. Whereas the Act in Tamil Nadu does not permit even a single revision. Several cases have been reported where the assessee revises his return on detection of any irregularity to avoid penal action. Hence it is proposed to bar revision of returns by assesseees in cases where tax evasion has

- been detected. Such revised returns that have been filed are liable to be rejected.
205. Full time employees authorized by the dealers come within the definition of Sales Tax Practitioners. However, their part time employees are not considered so. It is proposed to include part time employees holding Diploma Certificates issued by Centre for Taxation Studies also within the definition of Sales Tax Practitioner.
206. Hon`ble Members will be aware that presumptive dealers under the KVAT Act is a privilege given to those with turnover of less than Rs.50 lakh a year subject to certain conditions. Unfortunately some dealers have been misusing this status to evade tax. It is therefore proposed to introduce a penal provision of thrice the tax effect as in Section 17(5A) of the KGST Act to deter presumptive dealers from misusing their special status.
207. It is proposed to amend the KVAT Act to clarify that the disposal of seized goods will be only after confiscation.
208. A number of cases have been detected where dealers have set up sister-concerns to indulge in circuitous trading to inflate input tax credit and reduce the net tax payable. It is proposed to take stringent action in such cases. No input tax credit will be allowed in respect of purchases by a dealer from his sister-concern in case of bogus transactions. Where the goods have actually moved, the disallowance will be limited to 10% of input tax credit claim. Necessary amendments will be made for the purpose.
209. A rampant form of tax evasion increasingly noticed is stocking of goods in undeclared godowns. Registration of dealers giving addresses of all their business premises is already mandatory, but this provision is not being complied with. Hence I propose to treat stock in undeclared godowns as stock outside their regular books of accounts. However, it will be sufficient to give prior written intimation to the concerned assessing authority. Further, all registered dealers will be required to display their TIN / PIN on their signboards at all their premises, including on godowns. Necessary amendments will be made for this purpose.
210. There is a provision in the KVAT Act to issue clarifications on disputed issues. The intention is only to clarify the position as per the statute and not to legislate, which is the sovereign prerogative of this House. It is proposed to amend the statutes to reflect this position.
211. Planters have been given eligibility for input tax credit under the KVAT Act on purchases of fertilizers, pesticides, etc. Since they can deduct these expenses under the Kerala Agricultural Income Tax Act also, it is proposed to remove this facility and amend the statute accordingly.
212. It is proposed to make both penalties and assessments under KGST Act appealable as in the case of the KVAT Act.
213. It is proposed to effect necessary amendments to the statute to clarify that the maximum compounding fee collectable against a single



- offence spread over several return periods in a financial year will be two lakh rupees.
214. Taxing statutes usually provide for freezing of bank or similar accounts of defaulters. However, this is missing in the Kerala Tax on Luxuries Act. It is proposed to introduce a provision for the same.
215. When dues to Government are reduced on appeal or in any other proceedings, it is not necessary for the taxing authority to serve a fresh demand notice upon the assessee, if the Act is brought within the purview of The Kerala Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1967. It is proposed to include the KVAT Act and the Kerala Tax on Luxuries Act within the purview of this Act.
216. The border check posts have been a rich source of data on goods flowing into Kerala, for taxation purposes. However, as more and more goods are coming in as coastal cargo, through air and through the Railways, it is proposed to insert enabling provisions in the statute to collect data.
217. Billing and accounting systems of dealers are progressively getting computerized; this presents both opportunities as well as threats to Government. I propose to lay down a legal framework for regulation of this new area by suitably amending the statute.
218. It is proposed to permit all compounded works contractors other than metal crushing units and those undertaking works for Government of Kerala, KWA & Local Bodies, to collect tax. However, excess tax collected, if any, shall be forfeited to Government. Necessary amendments for the purpose will be made.