

**FIFTEENTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2023-2026)**

**NINETIETH REPORT**

**(Presented on 28<sup>th</sup> January, 2026)**



**SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM  
2026**

**FIFTEENTH KERALA LEGISLATIVE ASSEMBLY**

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ON  
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**NINETIETH REPORT**

**on**

**Paragraphs 1.1 to 2.4.7.6 relating to Taxes Department contained  
in the Report of the Comptroller and Auditor General of India  
for the year ended 31<sup>st</sup> March, 2015**

**(Revenue Sector)**

## CONTENTS

	<b>Page</b>
Composition of the Committee	: V
Introduction	: VII
Report	: 1
Appendices :	
I. Summary of main Conclusions/Recommendations	:
II. Notes furnished by the Government	:
III. Appendices from AG's Report	:

**COMMITTEE ON PUBLIC ACCOUNTS  
(2023-2026)  
COMPOSITION**

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Shri. Sunny Joseph

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Shri. K. N. Unnikrishnan  
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Shri. Selvarajan P. S., Joint Secretary.  
Shri. Jomy K. Joseph, Deputy Secretary  
Smt. Beena O. M., Under Secretary.

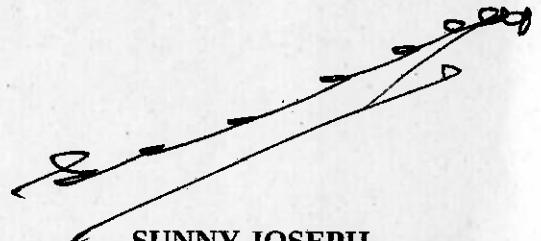
## INTRODUCTION

I, the Chairperson, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Ninetieth Report on paragraphs 1.1 to 2.4.7.6 relating to Taxes Department contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2015 (Revenue Sector).

The Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2015 (Revenue Sector) was laid on the Table of the House on 24<sup>th</sup> February, 2016.

The Committee considered and finalised this Report at the meeting held on 20<sup>th</sup> January, 2026.

The Committee place on records our appreciation of the assistance rendered to us by the Accountant General in the examination of the Audit Report.

A handwritten signature in black ink, appearing to read "SUNNY JOSEPH". The signature is fluid and cursive, with a large, stylized 'S' at the beginning.

Thiruvananthapuram,  
28<sup>th</sup> January 2026

**SUNNY JOSEPH,**  
*Chairperson,*  
*Committee on Public Accounts.*

## REPORT

### TAXES DEPARTMENT

#### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by Government of Kerala during the year 2014-15, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grant-in-aid received from Government of India during the year and the corresponding figures for the preceding four years are mentioned in Table- 1.1

**Table – 1.1**  
**Trend of revenue receipts**

(₹ in Crore)

Sl. No.	Particulars	2010-11	2011-12	2012-13	2013-14	2014-15
<b>1. Revenue raised by the State Government</b>						
	• <b>Tax revenue</b>	21,721.69	25,718.60	30,076.61	31,995.02	35,232.50
	• <b>Non-tax revenue<sup>1</sup></b>	1,930.79 (1,739.58)	2,592.18 (2,228.97)	4,198.51 (3,272.25)	5,575.03 (4,059.49)	7,283.69 (5,097.95)
	<b>Total</b>	<b>23,652.48</b> <b>(23,461.27)</b>	<b>28,310.78</b> <b>(27,947.57)</b>	<b>34,275.12</b> <b>(33,348.86)</b>	<b>37,570.05</b> <b>(36,054.51)</b>	<b>42,516.19</b> <b>(40,330.45)</b>
<b>2. Receipts from the Government of India</b>						
	• <b>Share of net proceeds of divisible Union taxes and duties</b>	5,141.85	5,990.36	6,840.65	7,468.68	7,926.29
	• <b>Grant-in-aid</b>	2,196.62	3,709.22	3,021.53	4,138.20	7,507.99
	<b>Total</b>	<b>7,338.47</b>	<b>9,699.58</b>	<b>9,862.18</b>	<b>11,606.88</b>	<b>15,434.28</b>
3.	• <b>Total revenue receipts of the State Government (1 and 2)</b>	30,990.95 (30,799.74)	38,010.36 (37647.15)	44,137.30 (43,211.04)	49,176.93 (47,661.39)	57,950.47 (55,764.73)
4.	<b>Percentage of 1 to 3</b>	<b>76</b>	<b>74</b>	<b>78</b>	<b>76</b>	<b>73</b>

Source: Finance Accounts prepared by PAG (A&E), Kerala

1 The difference between the figures shown in column and bracket represent expenditure on prize winning tickets of lotteries conducted by the Government.

The above table indicates that during the year 2014-15, the revenue raised by the State Government (₹42,516.19 crore) was 73 *per cent* of the total revenue receipts. The balance 27 *per cent* of the receipts during 2014-15 was from the Government of India.

**1.1.2** The details of the tax revenue raised during the period 2010-11 to 2014-15 are given in Table – 1.2.

**Table – 1.2**  
**Details of Tax Revenue raised**

(₹ in Crore)

Sl. No.	Head of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of Increase (+) or decrease (-) in 2014-15 over 2013-14	
		BE	Actual										
1	0040 – Tax on sales, trade etc.	15125.69	15833.11	19427.90	18938.83	23450.52	22511.09	28456.62	24885.25	31913.47	27908.33	12.15	
2	0030 – Stamps and Registration fees	2187.51	2552.49	3252.17	2986.55	3775.71	2938.38	4207.01	2593.29	3733.67	2659.02	(-) 11.25	
3	0041 – Taxes on vehicles	1301.88	1331.37	1410.73	1587.13	1694.49	1924.62	2570.65	2161.09	2799.82	2364.95	8.91	
4	0039 – State Excise	1836.21	1699.54	2059.05	1883.18	2550.65	2313.95	2801.75	1941.72	3208.36	1777.42	14.51	
5	0029 – Land Revenue	155.13	55.97	162.84	60.75	127.72	121.58	135.49	88.78	169.57	139.03	25.15	
6	0043 – Taxes and Duties on Electricity	64.40	20.71	29.31	21.28	250.00	24.71	284.15	42.25	309.14	48.71	8.72	
7	0022 – Taxes on Agricultural Income	12.00	46.97	14.49	42.86	15.98	18.92	23.99	21.55	26.35	8.60	9.84	
8	Others <sup>2</sup>	289.04	181.53	285.06	198.02	257.14	223.36	291.44	261.09	307.11	326.44	5.38	
	<b>Total</b>	<b>20971.86</b>	<b>21721.69</b>	<b>26641.55</b>	<b>25718.60</b>	<b>32122.21</b>	<b>30076.61</b>	<b>38771.10</b>	<b>31995.02</b>	<b>42467.49</b>	<b>35232.50</b>	<b>9.53</b>	<b>10.12</b>

Source : Budget Estimates and Finance Accounts of the respective years.

The respective Departments reported the following reasons for variation.

**Commercial Taxes:** The Department stated that under sales tax, the receipts were less than the budget estimates due to fall in collection of tax on certain

commodities such as rubber, motor vehicles, petroleum products, Indian made foreign liquor, gold etc.

In the case of agricultural income tax, the major revenue derived from the assessees were from rubber and tea. The decrease in the receipts for the year was due to decrease in production and sales of rubber and tea and fall in price of rubber. Tea plantations showed loss due to decrease in price and increase in plantation expenses.

**Taxes on vehicles:** The increase in receipts for 2014-15 over 2013-14 was due to increase in tax rate and arrear collection through one time settlement. There was a decrease in the actual receipts over the budget estimates for 2014-15. The Department stated that this was due to decrease in number of vehicles registered.

**Land Revenue:** The increase in revenue receipts was due to the upward revision of rates of building tax.

**State Excise:** There was drastic reduction in the actual receipts during 2014-15 compared to the budget estimates. The Department stated (December 2015) that the excise duty collected is directly related to the volume of the sale of Indian Made Foreign Liquor. The sale of liquor is showing a negative growth rate when compared to the sale volume in previous years. The Department stated that the Deputy Commissioner, Kerala State Beverages (M&M) Corporation Limited has been directed to furnish the actual reason for variation in receipts for 2014-15 over the receipts for 2013-14. This has not been received.

**Power:** The Department stated (November 2015) that the decrease of actual receipts over budget estimates was due to non-remittance of electricity duty and surcharge by Kerala State Electricity Board Limited. There was an increase in revenue receipts during the year which was due to increase in arrear collection.

The reason for variation between revenue receipts for 2014-15 and 2013-14 was called for from various Departments. The details were not furnished by Registration Department (January 2016).

**1.1.3.** The details of non-tax revenue raised during the period 2010-11 to 2014-15 are indicated in Table – 1.3.

**Table – 1.3**  
**Details of Non-Tax Revenue raised**

(₹ in Crore)

Sl. No.	Head of revenue	2010-11		2011-12		2012-13		2013-14		2014-15		Percentage of Increase (+) or decrease (-) in 2014-15 over 2013-14	
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual		
1	0075 – Miscellaneous General Services 103 – State Lotteries	464.60	380.25	462.05	919.53	1381.20	1747.51	2307.00	2280.15	2875.00 <sup>3</sup>	3259.14 <sup>4</sup>	24.62	42.94
2	0406 – Forestry and Wild Life	360.11	274.10	330.12	220.52	321.26	237.33	328.83	329.95	376.17	300.40	14.40	(-) 8.96
3	0202 – Education, Sports, Art and Culture	164.25	150.83	183.61	164.96	222.07	182.78	259.18	308.13	253.15	246.41	(-) 2.33	(-) 20.03
4	Others <sup>5</sup>	1095.35	934.40	1306.25	923.96	1092.08	1104.63	1333.56	1141.26	1473.15	1292.00	10.47	13.21
	<b>Total</b>	<b>2084.31</b>	<b>1739.58</b>	<b>2282.03</b>	<b>2228.97</b>	<b>3016.61</b>	<b>3272.25</b>	<b>4228.57</b>	<b>4059.49</b>	<b>4977.47</b>	<b>5097.95</b>	<b>17.71</b>	<b>25.58</b>

Source : Budget Estimates and Finance Accounts of the respective years.

**State Lotteries:** The Department attributed the reasons for increased revenue receipts to improved sale of lottery tickets due to revised prize structures, increased face value of four lottery tickets and hike in agency registration fees.

- 3 From gross receipts (budget estimates) of ₹ 4,235 crore, expenditure on prize winning tickets of lotteries (budget estimate) of ₹ 1,360 crore has been deducted, but other expenditure like commission to agents (budget estimate - ₹ 1,200 crore), establishment expenses (budget estimates ₹ 256 crore) have not been deducted.
- 4 From gross receipts of ₹ 5,444.88 crore, expenditure of ₹ 2,185.74 crore on prize winning tickets has been deducted, but other expenditure like commission to agents (₹ 1,792.67 crore), establishment expenses (₹ 280.22 crore) etc. have not been deducted.
- 5 Receipts from Interest receipts, Medical and Public Health, Crop Husbandry, Animal Husbandry, Public Works, Other Administrative Services, Police, Co-operation, Major Irrigation Projects, Judiciary, Jail, Stationery etc.

**Stationery:** During the year 2014-15, there was decrease in stationery receipts over 2013-14 and decrease in the actual receipts over budget estimates for 2014-15. The Department stated that the reason for decrease in revenue was due to failure of the Government undertakings in payment of stationery charges.

**Printing:** There was a decrease in the revenue for 2014-15 when compared to the revenue for 2013-14. The Department furnished the reason for this as increased arrear collection during 2013-14 over 2014-15.

**Forestry & Wild Life:** The Department stated that the budget estimates were prepared based on the timber extraction work proposed. Due to delay in preparation of working plan, labour problems etc., extraction work could not be taken up in all the final felling areas and hence the estimated revenue could not be realised.

**Agriculture:** There was decrease in actual receipt for 2014-15 over that in 2013-14. The Director of Agriculture stated that this was due to decrease in distribution of planting materials.

**Animal Husbandry:** There was decrease in actual receipts over the budget estimate for 2014-15. This was due to outbreak of avian influenza and slight decrease in the demand for poultry products and sale thereof. The increase in receipts for 2014-15 over 2013-14 was due to increase in the sale of farm products and periodical revision in price of some farm products like hen, egg, chicks etc.

**Public Works:** The nature of receipts includes rent from office buildings, centage charges, sale proceeds, etc. There was increase in the receipts for 2014-15 over 2013-14, which was due to enhancement in rates. The actual receipts for 2014-15 were less than the budget estimates. The Department attributed the reason for this due to shortfall in works, due to non-occupancy of buildings and poor sale proceeds.

The reason for variation between the receipts for 2014-15 over 2013-14 and that of budget estimates and actual receipts for 2014-15 were

called for from various departments (May 2015). This was not furnished by Departments of Crop Husbandry and Health (January 2016).

### 1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2015 on some principal heads of revenue amounted to ₹ 10,435.55 crore of which ₹ 1,872.12 crore was outstanding for more than five years, as detailed in the Table -1.4.

**Table 1.4**  
**Arrears of revenue**

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2015	Amount outstanding for more than 5 years as on 31 March 2015	Replies of Departments
1.	0040-Tax on sales, trade etc.	6,398.31	1,374.51	In Commercial Taxes Department, an amount of ₹ 3,673.98 crore is pending due from individuals, private firms, private companies which relate to the period from 1974-75 onwards. An amount of ₹ 2,384.23 crore is pending due from public sector undertakings of Government of India, ₹ 197.23 crore from public sector undertakings of Government of Kerala, ₹ 135.20 crore from other State Governments, ₹ 7.01 crore from Government of India and ₹ 0.66 crore from local bodies. An amount of ₹ 4,459.10 crore is under revenue recovery proceedings, recoveries involving ₹ 1,266.57 crore are under stay by High Court and other judicial authorities and by Government. The Department attributed (December 2015) the reason for delay in collection of revenue to stay of proceedings by various authorities. However, only ₹ 1,266.57 crore (19.79 per cent) out of a total of ₹ 6,398.31 crore was covered under such judicial intervention.
2.	0029-Land Revenue	2,057.43	Not furnished by Commissioner (Land Revenue)	In the Revenue and Disaster Management Department, the nature of demand includes land revenue and revenue recovery dues. An amount of ₹ 1,974.92 crore is under stay by High Courts and other judicial authorities and by Government. However, an amount of ₹ 82.51 crore was collectible balance. The Department attributed (November 2015) the reasons for delay in collection of revenue to stays by Government, Court and appellate authorities and that the Department has taken legal steps to realise the arrears.

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2015	Amount outstanding for more than 5 years as on 31 March 2015	Replies of Departments
3.	0041-Taxes on vehicles	1,279.46	85.98	The arrears of ₹ 984.49 crore are pending due from Kerala State Road Transport Corporation and ₹ 294.97 crore are pending due from individuals, private firms, private companies etc. Revenue recovery certificates have been issued for an amount of ₹ 80.87 crore and ₹ 0.30 crore have been stayed by High Courts and other judicial authorities. The Transport Department stated (October 2015) that demand notices have been sent to the registered owners of the vehicles and the dues would be collected.
4.	0406-Forestry and Wildlife	411.55	187.61	The nature of demand in the Forest Department includes value of timber, teak stumps, lease rent, penal interest, re-auction loss, centage charges etc. An amount of ₹ 0.67 crore pending for more than five years is due from Government of India, ₹ 0.23 crore from other State Governments, ₹ 3.51 crore from public sector undertakings of Government of India, ₹ 393.35 crore from public sector undertakings of Government of Kerala and other States and ₹ 13.67 crore from individuals, private companies etc and ₹ 0.12 crore from local bodies. The Department attributed (October 2015) the reason for delay in collecting the revenue to pending revenue recovery steps taken against the defaulters, court cases, stay orders etc. The Department stated that necessary action has been initiated to realise the arrears of lease rent and other dues from departments and Public sector undertakings through discussions at Government level.
5.	0039-Excise	193.50	190.72	The abkari arrears in the Department are pending from 1952 onwards. The abkari arrear dues are ₹ 0.85 lakh from public sector undertakings of Government of Kerala and ₹ 193.50 crore from individuals, private firms, private companies etc. The Department attributed (July 2015) the reasons for delay in collection of revenue to pending revenue recovery action and stay by court. The reason furnished by the Commissioner is not acceptable since only ₹ 15.68 crore (8.11 per cent) out of a total of ₹ 193.50 crore was covered under judicial intervention.

Sl. No.	Head of rev- enue	Total amount out- standing as on 31 March 2015	Amount out- standing for more than 5 years as on 31 March 2015	Replies of Departments
6.	0070-60-110- Fees for Gov- ernment audit	35.15	Not furnished by Director, Local Fund Audit Depart- ment	The arrears of revenue pending collection towards audit charge are ₹ 14.36 crore from universities, ₹ 3.32 crore from Devaswom Boards, ₹ 0.84 crore from temples and ₹ 16.63 crore from miscellaneous institutions and development authorities. The Local Fund Audit Department stated (July 2015) that demand notices are being sent to defaulters and proposals have been submitted to the Government for realising audit charge from the grants given to these bodies/institutions.
7.	0058-Prining and Stationery	16.55	9.58	The amounts due to the Stationery Department are ₹ 13.32 crore from Government of Kerala, ₹ 1.96 crore from public sector undertakings of Government of Kerala, ₹ 1.25 crore from Government of India and ₹ 1.43 lakh from public sector undertakings of Government of India and ₹ 0.42 lakh from local bodies. The Department stated (July 2015) that reminders are being sent to the offices concerned who have not remitted the amounts.
8.		41.49	23.49	The nature of demand of the Printing Department includes printing charges charged from Departments of Education, Public Service Commission, High Court, Medical Council, Universities etc. An amount of ₹ 0.08 crore is due from Government of India and ₹ 41.41 crore is due from local bodies, public sector undertakings of Kerala and from Government of Kerala. The Department attributed (November 2015) the reason for the delay in collection of revenue to delay in settlement of arrears by the departments concerned. The Department stated that frequent reminders are being sent for settlement of outstanding arrears and that meetings had been held at Government level.
9.	0230-Labour and Employ- ment	1.20	0.06	The nature of demand of the Department of Factories and Boilers was fee for renewal of licence of factories. An amount of ₹ 0.11 crore and ₹ 1.09 crore is due from public sector undertakings of Government of Kerala and individuals, private firms and private companies respectively. The Director stated (August 2015) that the delay in collection was due to the fact that most of the factories, which have arrears, are not working.

Sl. No.	Head of rev- enue	Total amount out- standing as on 31 March 2015	Amount out- standing for more than 5 years as on 31 March 2015	Replies of Departments
10.	0853-Non- Ferrous Min- ing and Metal- lurgical Indus- tries	0.91	0.17	The nature of demand made by Mining and Geology Department is royalty of minerals. The arrears of revenue pending collection are ₹ 30.21 lakh from Co-operative Society, ₹ 25.92 lakh from public sector undertakings of Government of Kerala and ₹ 35.36 lakh from individuals, private firms, private companies etc. The Department stated (June 2015) that the reason for delay in collection of revenue was due to dispute regarding the claims, court stays, appeals and Government stays and that action was being taken to redress the dispute and to vacate the stays.
	<b>Total</b>	<b>10,435.55</b>	<b>1,872.12</b>	

It could be seen from the table that recovery of ₹ 1,872.12 crore was pending for more than five years and no effective efforts were being made to recover them. Also arrears of ₹ 2,138.17 crore were pending with the departmental authorities. The cases referred for write off (₹ 70.14 crore) were also not being pursued by the departments with the offices concerned.

The arrears of revenue pending for collection in respect of Town Planning Department and Registration Department were shown as Nil (November 2015) despite huge dues pending recovery under revenue recovery proceedings in the case of Registration Department. The exact dues pending recovery with Revenue Department was not made available by Registration Department despite called for (December 2015) from the IG of Registration. Further the details of arrears of revenue called for in May 2015 have not been furnished by Police, Power, Labour and Ports Departments (January 2016).

The enforcement of the systems existed in the Departments for the realisation of arrears of revenue was inadequate and inefficient. The indifferent attitude of the officials concerned in vacating the stay, enforcing revenue recovery proceedings, etc., also resulted in poor recovery of arrears of revenue.

Departmental instructions for fixing accountability on assessing officers for inefficiencies in revenue collection may be considered for issue.

### 1.3 Arrears in assessments

The particulars regarding the arrears in assessment such as cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year 2014-15 were called for (May 2015) from the Revenue and Disaster Management (R&DM) Department and the Commercial Taxes Department. The details furnished (between November and December 2015) by the R&DM Department and Commercial Taxes Department are given in Table -1.5.

**Table - 1.5**  
**Arrears in assessments**

Head of revenue	Opening balance	New cases due for assessment during 2014-15	Total assessments due	Cases disposed of during 2014-15	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
<b>Revenue and Disaster Management Department</b>						
Building Tax	10,863	1,43,028	1,53,891	1,37,457	16,434	89.32
Plantation tax	4,318	1,085	5,403	2,585	2,818	47.84
<b>Commercial Taxes Department</b>						
1) a) Sales Tax	2,259	1,168	3,427	1,542	1,885	45.00
b. Motor Spirit Tax	82	75	157	90	67	57.32
c. Luxury Tax	6,207	7,139	13,346	5,994	7,352	44.91
d. Tax on Works Contracts	724	828	1,552	624	928	40.21
e. Others	7,314	5,346	12,660	6,325	6,335	49.96
<b>Total</b>	<b>16,586</b>	<b>14,556</b>	<b>31,142</b>	<b>14,575</b>	<b>16,567</b>	<b>46.80</b>
2) Taxes on Agricultural Income	2,060	433	2,493	1,546	947	62.01

Audit found that during the year, clearance of the arrear cases of building tax and plantation tax in R&DM Department were 7,168 and 1,567 respectively which were 67.78 *per cent* and 36.65 *per cent* respectively. In

the Commercial Taxes Department the clearances in sales tax and agricultural income tax assessments were 1,198 and 1,421 respectively which were 53.03 *per cent* and 68.32 *per cent* respectively.

#### **1.4 Evasion of tax detected by the Department**

The details of cases of evasion of tax detected by the Department was called for by Audit in May 2015 and reminded in September and October 2015. The details as furnished by the Commercial Taxes, State Excise and Transport Departments and the Chief Electrical Inspectorate are given in Table – 1.6.

**Table – 1.6**  
**Details of evasion of tax detected**

(₹ in Crore)

Sl No.	Head of Revenue	Cases pending as on 31 March 2014	Cases detected during 2014-15	Total	Number of cases in which assessment / investigation completed and additional demand with penalty etc. raised		Number of cases pending for realisation as on 31 March 2015
					Number of cases	Amount of demand	
1	0040 – Tax on sales, trade etc.	3213	4953	8166	4633	83.91	3445
2	0039 – State Excise	795	-	795	30	241.05	765
3	0041 – Taxes on vehicles	2898	279	3177	1752	3.73	1425
4	0043-101-99 Electricity duty	-	4	4	4	24.81	4 <sup>6</sup>

The Agriculture, State Lotteries, Health Services, Animal Husbandry, Printing and Stationery Departments stated (between May and June 2015) that no case of evasion of tax was detected by them.

6 Though investigation has been completed and demand raised in four cases, amount is pending realisation.

The Commissioner of Land Revenue stated (November 2015) that the details are being gathered from District Collectors. Final reply has not been received as of January 2016. Details had also not been furnished by Public Works and Forest Departments as of January 2016.

### 1.5 Pendency of refund cases

The details of refund cases pending at the beginning of the year 2014-15, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2014-15 as reported by the Commercial Taxes and Excise Departments are given in **Table -1.7**.

**Table- 1.7**  
**Details of pendency of refund cases**

Sl. No.	Particulars	State Excise		Commercial Taxes	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year 2014-15	6	1.72	4,271	142.30
2.	Claims received during the year	2	0.05	4,966	140.32
3.	Refunds made during the year	2	0.97	3,874	92.09
4.	Balance outstanding at the end of the year 2014-15	6	0.80	5,363	190.53

The closing balance of refund cases for 2013-14 furnished by the Commissioner, Excise Department was four involving an amount of ₹ 1.69 crore. The Department furnished opening balance for 2014-15 as six involving an amount of ₹ 1.72 crore and explained (October 2015) that the Government orders for refund of two claims pertaining to 2013-14 were received only on 2014-15. However, the Department showed this in the clearance of 2013-14 itself, thereby making the closing balance of 2013-14 as four and ₹ 1.69 crore. This was irregular.

In Commercial Taxes Department, out of the 5,363 outstanding cases, 5,358 cases pertain to refund of value added tax. The reason for pendency

though called for (May 2015) in Audit had not been explained by the Department (January 2016).

### 1.6 Analysis of stay granted

An analysis of arrears of revenue which were under various stages of collection revealed that the arrears pending collection as on 31 March 2015 included collections stayed by various authorities at various stages on some principal heads of revenue as detailed in the **Table -1.8**.

**Table – 1.8**  
**Stages of stay granted**

Sl. No.	Head of revenue	Total <b>arrear</b> amount	Stage wise details of		Total amount under stay	₹ in crore % of stay to total arrear
			Stay by Court and other judicial authorities	Stay by Government		
1.	0040- Tax on sales, trade etc.	6,398.31	1,056.90	209.67	1,266.57	19.80
2.	0029- Land Revenue	2,057.43	1,214.34	760.58	1,974.92	95.99
3.	0041-Taxes on vehicles	1,279.46	0.30	0	0.30	0.02
4.	0406-Forestry and Wild Life	411.55	2.73	79.14	81.87	19.89
5.	0039- State Excise	193.50	15.68	0	15.68	8.10
6.	0853-Non-Ferrous Mining and Metallurgical Industries	0.91	0.12	0.40	0.52	<b>57.14</b>
	<b>Total</b>	<b>10,341.16</b>	<b>2,290.07</b>	<b>1,049.79</b>	<b>3,339.86</b>	<b>32.30</b>

An amount of ₹ 3,339.86 crore was pending under stay, which is 32.20 *per cent* of the total arrear amount. The Departments had not taken effective action to vacate the stay and to realise the amounts.

The arrears of revenue pending under stay in respect of Registration Department, Printing Department, Stationery, Local Fund and Town Planning Department were Nil. The details of arrears pending under stay were not furnished by Power Department (January 2016).

### 1.7 Response of the Government / Department to Audit

The Principal Accountant General (E&RSA), Kerala, conducts periodical inspection of the Government Departments to test check the transactions and verifies the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to furnish first reply within four weeks from the date of receipt of the Inspection Report. Even if final reply to certain paras in Inspection Report could not be furnished within the prescribed time limit, an interim reply may be furnished indicating the action taken to rectify the defects pointed out by Audit. Serious financial irregularities are reported to the heads of the Departments and the Government.

Inspection reports issued upto December 2014 disclosed that 24,691 paragraphs involving ₹ 9,146.67 crore relating to 3,193 IRs were outstanding at the end of June 2015 as mentioned below with the corresponding figures for preceding two years in Table 1.9.

**Table – 1.9**  
**Details of pending Inspection Reports**

	June 2013	June 2014	June 2015
Number of IRs pending for settlement	2,906	3,027	3,193
Number of outstanding audit observations	22,189	23,324	24,691
Amount of revenue involved (₹ in crore)	2,794.17	6,018.52	9,146.67

**1.7.1** The Department-wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in the Table 1.10.

**Table - 1.10**  
**Department-wise details of IRs**

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	(₹ in crore)
					Money value involved
1.	Commercial Taxes	Tax on sales, trade, etc.	1,695	19,003	5,538.04
		Taxes on agricultural income	186	756	141.31
2.	Power	Electricity duty	22	74	3,176.12
3.	Revenue	Land Revenue	376	1,702	208.34
4.	Transport	Taxes on motor vehicles	339	1,869	56.28
5.	Excise	State Excise	186	445	14.98
6.	Stamps and Registration	Stamp duty and registration fees	375	824	9.59
7.	Lotteries	Receipts from lotteries	14	18	2.01
		<b>Total</b>	<b>3,193</b>	<b>24,691</b>	<b>9,146.67</b>

Audit did not receive even the first replies in case of 443 IRs within four weeks from the date of issue of the IRs from seven heads of offices during 2014-15. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs and it also showed the failure to monitor effectively the clearance of pending Audit observations by the Audit Monitoring Committees at Secretary level and Apex Committee at Chief Secretary level.

The Government needs to have more effective system for ensuring prompt and appropriate response to audit observation within the time frame prescribed in the Circular<sup>7</sup> issued by the Finance Department by improved monitoring and putting in further checks and balances and incentives and disincentives into this mechanism.

### **1.7.2 Departmental Audit Committee Meetings**

The Government set up Audit Committees to monitor and expedite the progress of settlement of local audit reports and paragraphs in the local audit

reports. The details of the audit committee meetings held during the year 2014-15 and the paragraphs settled are mentioned in Table 1.11.

**Table 1.11**  
**Details of Departmental Audit Committee Meetings**

Head of revenue	Number of meetings held	Number of audit observations pending as on 31 March 2014	Number of paragraphs settled	(₹ in crore)
				Amount involved in settled paragraphs
Taxes on vehicles	5	1,673	437	5.81
Tax on sales, trade etc.	4	19,025	709	43.94
State Excise	3	423	52	0.97
Stamp duty and registration fees	1	674	14	0.01
Land Revenue and Building Tax	1	1,773	75	0.80
<b>Total</b>	<b>14</b>	<b>23,568</b>	<b>1,287</b>	<b>51.53</b>

An amount of ₹ 8.61 crore was recovered after discussion in these meetings. The progress of settlement of paragraphs pertaining to the Commercial Taxes Department, Transport Department and Revenue Department was negligible compared to the huge pendency of the local audit reports and paragraphs despite holding Departmental Audit Committee Meetings. In the meeting (17.01.2024) the committee noticed that the recommendation given in this para combines all the recommendations on recommendation is a general recommendation combining all the above recommendations.

### **1.7.3 Non-production of records to Audit for scrutiny**

The programme of local audit of Tax Revenue/Non-tax Revenue offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the Departments to enable them to keep the relevant records ready for audit scrutiny.

During the year 2014-15 files relating to KVAT assessments in which the turnover of the assessee was above ₹ 60 lakh and KGST assessments in which the tax effect was above ₹ two lakh were called for by Audit for scrutiny in

Commercial Taxes Department. However, 6,355 tax assessment files relating to 80 offices were not made available to Audit. Of these 2,421 files pertained to 20 special circles and works contract offices, where assessments of major dealers are dealt with as given in Appendix III(1).

Circle/division wise analysis showing the names of head of offices for the years 2010-11 to 2014-15 is given in Appendix III(2).

Non-production of large number of transaction records involving substantial revenue not only hinders Audit in discharging the constitutional responsibility but also comes in the way of assuring the State Government about the quality and risk involved in these transactions involving revenue for the State Government. The possibility of fraud or misappropriation or business malfeasance remaining hidden/surpassed and escaping detection during audit also remains high.

The matter was brought to the notice of the Chief Secretary and the Additional Chief Secretary (Finance) to Government by the Principal Accountant General in September 2015. The Additional Chief Secretary (Finance) stated (October 2015) that the matter of non production of records by Departments may be taken up as an agenda item in Audit Monitoring Committee (AMC) meeting conducted quarterly by Departments. Directions have been given (October 2015) to all Departments that the AMC should monitor and ensure production of necessary records and replies to the audit parties and to take stringent action against the officers for non compliance.

#### **1.7.4 Response of the Departments to the draft paragraphs**

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are sent by the Principal Accountant General to the Principal Secretaries/Secretaries of the respective Departments drawing their attention to audit findings and requesting their response within six weeks.

Eighty seven draft paragraphs including two performance audits were sent to the Principal Secretaries/Secretaries of the respective Departments by

name between June and October 2015. The Principal Secretaries/ Secretaries of the Departments furnished replies to all the compliance audit paragraphs and to the Performance Audit Reports on System of Assessment under Kerala Value Added Tax and Levy, Collection and Accounting of Electricity Duty, Surcharge and Inspection Fee and the same has been included in this Report.

#### **1.7.5 Follow up on the Audit Reports-summarised position**

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. 215 paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Kerala for the years ended 31 March 2009 to 31 March 2013 were placed before the State Legislature Assembly between 01 March 2010 and 17 July 2014. The action taken explanatory notes from the Departments concerned on 183 paragraphs were received late in respect of each of these Audit Reports. Action taken explanatory notes in respect of 30 paragraphs from four departments (Taxes, Revenue and Disaster Management, Transport and Power) had not been received for the Audit Report for the year ended 31 March 2014 so far (January 2016).

It was noticed that six out of nine departments did not submit action taken explanatory notes as of December 2015 in respect of 62 paragraphs (56 individual and six PAs/Review paragraphs) featured in the C&AG's Audit Reports in respect of Audit Reports from the year 2012. For 56 individual transaction audit paragraphs, compliance was not furnished by four Departments. The Departments largely responsible for non-submission of action taken explanatory notes were Taxes, Revenue and Disaster Management and Transport.

The PAC discussed 146 paragraphs pertaining to the Audit Reports for the years from 2009 to 2013 and its recommendations on 77 paragraphs were incorporated in their Reports brought out during their respective tenure for the period 2008-16. However, ATN have not been received in respect of 138 recommendations of the PAC from the Departments concerned as mentioned in the Table 1.12.

**Table 1.12**

Year of PACs <sup>b</sup>	Name of the Department										Total
	Taxes	Transport	Land Revenue	Forest & Wild Life	Finance	Home	Education	Power	Co-operation	Water Resources	
2008-11	30	3	9	-	-	2	1	1	1	-	47
2011-14	9	12	2	-	-	-	-	2	-	-	25
2014-16	20	12	8	6	1	1	1	-	16	1	66
<b>Total</b>	<b>59</b>	<b>27</b>	<b>19</b>	<b>6</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>17</b>	<b>1</b>	<b>138</b>

The Departments largely responsible for non-submission of ATN were Taxes, Transport, Revenue and Disaster Management and Co-operation.

The non receipt of ATN have been brought to the notice of Chief Secretary to the Government in Apex Committee meetings held (May and December 2015) and through DO letter by the Principal Accountant General to the Chief Secretary to Government.

### **1.8 Status of the mechanism for dealing with the issues raised in the audit**

To analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last 10 years for one Department is evaluated and included in this Audit Report.

The following paragraphs 1.8.1 to 1.8.2 discuss the performance of the Commercial Taxes Department under revenue head 0040-Tax on sales, trade

8 Year represents tenure of the PAC.

etc. and cases detected in the course of local audit during the last ten years and also the cases included in the Audit Reports for the years 2004-05 to 2013-14.

### 1.8.1 Position of Inspection Reports

The summarised position of the inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2015 are tabulated below in Table 1.13.

**Table 1.13**  
**Position of Inspection Reports**

Sl No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance during the year		
		IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
1	2004-05	1,418	12,396	442.85	149	1,932	165.17	145	1,036	18.18	1,422	13,292	589.84
2	2005-06	1,422	13,292	589.84	166	1,837	51.81	891	8,454	487.13	697	6,675	154.52
3	2006-07	697	6,675	154.52	167	1,568	43.48	95	948	17.72	769	7,295	180.28
4	2007-08	769	7,295	180.28	195	1,770	91.91	8	537	13.37	1,033	9,182	540.66
5	2008-09	1,033	9,182	540.66	178	2,826	92.46	88	1,237	5.11	1,123	10,769	628.01
6	2009-10	1,123	10,769	628.01	295	4,916	622.11	278	4,240	44.35	1,140	11,445	1,205.77
7	2010-11	1,140	11,445	1,205.77	206	4,401	518.36	86	1,048	50.91	1,260	14,798	1,670.22
8	2011-12	1,260	14,798	1,670.22	159	3,212	858.84	50	783	16.44	1,369	17,227	2,512.62
9	2012-13	1,369	17,227	2,512.62	161	2,802	243.85	26	1,783	261.89	1,504	18,246	2,494.58
10	2013-14	1,504	18,246	2,494.58	147	2,493	516.54	2	1,214	42.31	1,649	19,525	2,968.81

The Government arranges Audit Committee meetings between the Department and office of the Principal Accountant General to settle the old paragraphs. As would be evident from the above table, against 1,418 outstanding IRs with 12,396 paragraphs as on start of 2004-05, the number of outstanding IRs increased to 1,649 with 19,525 paragraphs at the end of 2013-14. This is indicative of the fact that the response to the local audit reports was poor and the steps taken by the Department to clear the outstanding IRs and paragraphs were inadequate.

### 1.8.2 Recovery in accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in Table 1.14.

**Table 1.14**  
**Details of paragraphs included in Audit Reports**

Sl. No.	Year of Audit Report	Number of paragraphs included	Money value of paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	(₹ in crore)
							Cumulative position of recovery of accepted cases as of 31.03.2014
1	2004-05	9	40.69	8	11.93	0	0.12
2	2005-06	8	25.52	7	1.96	0.09	0.66
3	2006-07	12	12.54	10	3.23	0	0.52
4	2007-08	9	253.11	8	10.98	0.09	4.55
5	2008-09	16	632.19	14	305.78	0.08	17.24
6	2009-10	20	463.59	13	276.77	0	1.77
7	2010-11	27	449.65	22	379.82	7.78	8.88
8	2011-12	16	290.50	9	238.06	0	4.26
9	2012-13	16	12,902.39	15	12,886.24	0.33	1.97
10	2013-14	14	75.52	8	18.57	0.46	0.46

It is evident from the above table that the progress of recovery in accepted cases was slow throughout during the last ten years. The recovery of accepted cases was to be pursued as arrears recoverable from the parties concerned. No mechanism for pursuance of the accepted cases had been put in place by the Department/ Government as of December 2015.

The reasons for poor recovery even in accepted cases though called for had not been furnished by the Department (January 2016).

### **1.9 Action taken on the recommendations accepted by the Departments/ Government**

The draft reports of performance Audits conducted by the Principal Accountant General are forwarded to the Department concerned/ Government for their information with a request to furnish their replies. These reports are also discussed in an Exit Conference and the views of the Department/ Government are included while finalising the Audit Reports.

The details of Performance Audits on the Departments of Commercial Taxes, Registration, Excise, Transport and Revenue and Disaster Management featured in the Reports for the last five years along with recommendations and their status are given in Appendix III(3).

### **1.10 Audit planning**

The unit offices under various Departments were categorised into high, medium and low risk units according to their revenue position, past trends of audit observations, complaints, media reports, non-production of records, information regarding malpractice obtained through RTI and misappropriation. The annual audit plan was prepared on the basis of risk analysis which *inter-alia* included critical issues in government revenue, tax administration i.e. budget speech, white paper on finances, reports of the Finance Commission (State and Central), recommendation of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during the past five years etc.

During the year 2014-15, there were 849 audit units, of which 451 units were planned and audited, which is 53.12 *per cent* of the total audit units.

### **1.11 Results of audit**

#### **Position of local audit conducted during the year**

Test check of the records of 443 units<sup>9</sup> of sales tax/Value Added Tax, State Excise, Motor Vehicles and other Departmental offices conducted during the year 2014-15 showed under-assessment/ short levy/ loss of revenue aggregating ₹ 5,148.21 crore in 2,647 cases. During the course of the year, the Departments concerned accepted under-assessment and other deficiencies of ₹ 658.95 crore involved in 230 cases which were pointed out in audit during 2014-15. The Departments collected ₹ 15.27 crore in 949 cases during 2014-15, pertaining to the audit findings of previous years.

9 In the case of remaining 8 units, IRs were issued during the year 2015-16.

## 1.12 Coverage of this Report

The Report contains 31 paragraphs involving financial effect of ₹4,506.23 crore. The Department/Government had accepted audit observations involving ₹ 710.29 crore out of which ₹ 6.94 crore had been recovered. These are discussed in succeeding Chapters II to VII.

**[Audit Paragraphs 1.1 to 1.12 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March 2015.  
(Revenue Sector)]**

[Note furnished by the Government on the above audit paragraphs is included as Appendix II]

*(Excerpts from the discussion of Committee with officials concerned on 04.10.2023)*

- 1) The Committee observed that replies to many audit paras for the year 2015 had not yet been submitted and sought an explanation in that regard. The Commissioner, GST Department submitted that an interim reply was sent and the final reply could be furnished upon getting clarification in some cases. There were 642 cases to be cleared, and those that were discussed and cleared could be disposed of. Each case of the year 2014 was discussed with the Accountant General and, those that required more clarification and those that could be dropped were identified so that they could be easily examined by the Committee. The Commissioner added that no such reconciliation had yet been done for the cases of the year 2015 and requested some more time to examine and identify the cases that could be dropped and furnish detailed reply to the remaining cases.
- 2) The Committee suggested that the admissible cases should be settled in discussion with the Accountant General and decided to examine the second chapter of the second item on the Agenda in the forthcoming meeting.
- 3) In response to the Committee's query about the action taken for collection of revenue arrears, the Commissioner, GST Department submitted that a special

system for arrear recovery had been implemented. Arrear cases in all districts were codified and around 20 cases with the highest amount of tax arrears had been identified and the District Collectors concerned were instructed to proceed with revenue recovery.

4) The Inspector General, Registration Department submitted that there were three audit remarks related to the Registration Department. The Committee opined that the audit remarks were not considered specifically as they were general observations. The Inspector General added that some reports which were pending early had been furnished at present. The Committee accepted it.

5) The Additional Chief Principal Conservator, Forest Department submitted that there were some general observations related to Forest Department. He added that necessary steps were being taken to increase revenue and to recover arrears. The Committee pointed out that the revenue from Forest Department seemed to be less than the estimate and enquired whether it was being carried over to the subsequent year, as stated in the reply furnished by the department. The Additional Chief Principal Conservator, Forest Department submitted that the timber operations would begin in September every year. The target fixed at the beginning of the year would be revised in September, and the revenue collection had exceeded the target every year. To the query of the Committee regarding the source of revenue, the Additional Chief Principal Conservator informed that timber operations were the primary source and that sand also contributed a little.

6) The Committee opined that the department itself was responsible for non reception of revenue from the forests and that the department had not taken any steps to cut down mature trees. Unemployment in the forest region was also a major issue and proper inspection should be done to identify such issues. The Committee pointed out that the 'sand kalavara' in Kulathoopuzha under the DFO, Thiruvananthapuram had not been functioning for the last two years due

to the negligence on the part of the Forest Department and enquired whether the department had made any inspection in that regard. The Additional Chief Principal Conservator submitted that each division would have a working plan approved by Government of India, and the trees proposed in the working plan only could be felled. Permission for felling of trees should also to be obtained from Government of India every year. The Committee enquired whether the working plan was being prepared according to the proposal made by the State and also opined that the Officers were not taking initiative to cut the trees for which permission was already received. The Additional Chief Principal Conservator of Forests submitted that the list of trees to be felled should be submitted to the Central Government in advance and permission would be granted only after verifying the sufficiency of the regeneration made for the previous years' felling.

7) The Committee enquired whether the departmental enforcement was not properly done in the cases related to illegal logging and trafficking. The Additional Chief Principal Conservator of Forests submitted that proper enforcement was being carried out and the number of offences related to forest Department was found to be decreasing.

8) The Additional Chief Principal Conservator of Forests informed that as per the rule, trees in wildlife sanctuaries and other protected forests should be left in the forest itself to rot whereas trees in the territorial area could be taken for sale to generate revenue income.

9) The Director, State Lotteries Department submitted that there were two general audit observations related to Lottery. Awarding prizes was a part of work of the Lottery Department and, lottery would become attractive with higher prize money. The Committee pointed out the decrease in number of prizes even though the prize money was increasing and opined that the prize money was lesser when compared to the amount collected. The Director, State Lotteries Department submitted that about sixty per cent of the collection from lottery

sales was spent for awarding prizes. To a query of the Committee, the Director submitted that the tax would be twenty eight per cent. The Committee made a suggestion that it would be better to give ₹ 5 crore each to five persons instead of giving ₹ 25 crore as first prize. The Director, State Lotteries Department informed that from the previous experience, it was observed that lottery sales decreased considerably with reduction of prize money and, he added that '₹ 25 crore for ₹ 500' was its attraction. The Committee accepted the reply.

### **Conclusion/Recommendation**

#### **10) No comments**

### **TAXES / VAT ON SALES, TRADE ETC.**

#### **2.1 Tax Administration**

Kerala General Sales Tax (KGST)/Kerala Value Added Tax (KVAT) laws and rules made thereunder are administered at the Government level by the Principal Secretary, Taxes. The Commissioner of Commercial Taxes (CCT) is the head of the Commercial Taxes Department who is assisted by Joint Commissioners (JC), Deputy Commissioners (DC), Assistant Commissioners (AC) and Commercial Tax Officers. The assessment, levy and collection of tax are done by Assistant Commissioners and Commercial Tax Officers.

KGST is leviable on sale of Ganja and opium, foreign liquor and certain petroleum products. VAT is leviable on the intrastate sale of remaining commodities and Central Sales Tax (CST) on inter-State sales.

#### **2.2 Internal Audit**

The internal audit wing (IAW) in the Commercial Taxes Department commenced functioning from 1 June 2009. The wing headed by the Deputy Commissioner is assisted by two Assistant Commissioners and five Commercial Tax Officers. During 2014-15, the wing planned 356 units but could audit only 85 units. Potential cases and collection fall cases are compulsorily checked by the wing. Out of an overall outstanding of 4,595 paras only 448 paras (9.74 per cent) were cleared. The reason for low

clearance of observations made by IAW, though called for (April 2015) has not been furnished by the CCT (December 2015). This indicates the poor response of the CCT to the observations of the IAW and in enforcing clearance of the paras by addressing the shortcomings/deficiencies pointed out by the wing.

### 2.3 Result of Audit

Test check of the records relating to KVAT/KGST and CST assessments and connected documents in 160 out of 169 offices of the Commercial Taxes Department conducted during 2014-15 showed underassessment of tax and other irregularities involving ₹1,771.71 crore in 1,812 cases which fall under the following categories given in Table - 2.1.

**Table - 2.1**

Sl. No.	Categories	Number of cases	(₹ in crore)	
			Amount	Amount
1.	Performance Audit on "System of Assessment under KVAT"	1	1,191.72	
2.	Turnover escaping assessment	976	431.61	
3.	Grant of irregular exemption	204	33.29	
4.	Application of incorrect rate of tax	44	13.90	
5.	Grant of excess input tax credit	140	6.34	
6.	Other lapses	447	94.85	
	<b>Total</b>	<b>1,812</b>	<b>1,771.71</b>	

During the course of the year, the Department accepted under assessment and other deficiencies involving ₹187.09 crore in 1,162 cases which were pointed out in Audit. An amount of ₹8.49 crore was realised in 628 cases during the year 2014-15 of which 51 cases involving ₹0.60 crore were pointed out in 2014-15 and the rest in earlier years.

Department recovered full amount in a draft paragraph issued, pertaining to M/s Five Star Cone Crusher and Hollow Bricks, Peravoor and involving ₹9.69 lakh based on the Audit observation, in November 2013.

The reasons for non/short realisation of the amounts even in cases accepted by the Department were called for in September 2015. This has not been received (January 2016).

A Performance Audit on System of Assessment under KVAT with financial impact of ₹ 1,191.72 crore and a few illustrative audit observations involving ₹ 55.52 crore are mentioned in the following paragraphs.

## **Value Added Tax**

### **2.4 Performance Audit on System of Assessment under KVAT**

#### **2.4.1 Highlights**

- Department failed to bring majority of dealers under tax net by registering them to VAT system. Though Economic Census 2013 reported that there were 13.41 1akh establishments operating with fixed structure outside the house hold having different economic activities other than agricultural, service and defence, during 2013-14, but only 2.20 1akh dealers were registered for VAT in the State. Test check by Audit revealed non-levy of tax of ₹ 200.94 crore including interest and penalty on transactions of un-registered dealers.

*[Paragraph 2.4.7.1]*

- Non-adherence to provisions of Act and Rules while completing the assessment resulted in non/short levy of tax of ₹ 744.99 crore including interest and penalty.

*[Paragraph 2.4.7.6]*

- Lack of co-ordination with other Departments in collecting data useful for the completion of assessment resulted in non/short levy of ₹ 117.62 crore including interest and penalty.

*[Paragraph 2.4.7.7]*

- There was no system in place for analysis and utilisation of the data

available in the KVATIS before acceptance of self assessments/completion of assessments. Scrutiny of cases revealed non/short levy of tax of ₹128.17 crore including interest and penalty due to these deficiencies.

*[Paragraph 2.4.7.8]*

- Internal control mechanism existing in the Department was not sufficient.

*[Paragraph 2.4.7.10]*

#### **2.4.2. Introduction**

The Kerala Value Added Tax (KVAT) Act, 2003 and KVAT Rules, 2005 regulate the levy and collection of tax on sales and purchases of goods in the State. The system of value added taxation was introduced in the State with effect from 1 April 2005.

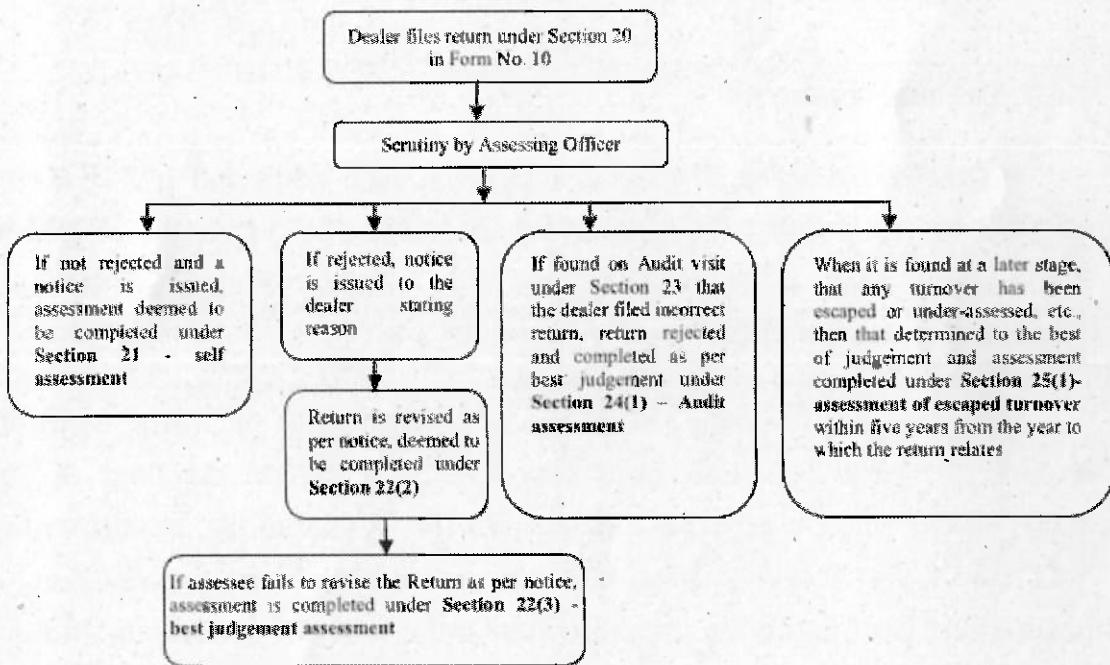
VAT is a multi-stage tax levied at each stage of the value addition chain, with a provision to allow Input Tax Credit (ITC) on tax paid at an earlier stage, which can be appropriated against the VAT liability on subsequent sale. VAT constitutes major portion of State revenue and hence assessment of VAT has a direct bearing on the tax collection and quality of tax administration.

With the introduction of VAT, the concept of assessment by assessing officers was basically withdrawn and the system of self assessment was introduced. Under the self assessment system, the dealers are required to file periodical returns and if the return so submitted is in the prescribed manner and accompanied by the prescribed documents, the assessment for the return period shall be deemed to have been completed. Provisions for reopening of the self assessments consequent to the detection of any turnover escaping assessment, application of incorrect rate of tax etc., have also been provided in the Act.

As part of the e-governance initiative and the introduction of VAT, the Department had introduced an application software system called KVATIS, to capture the complete workflow of the Department in all functional areas. The

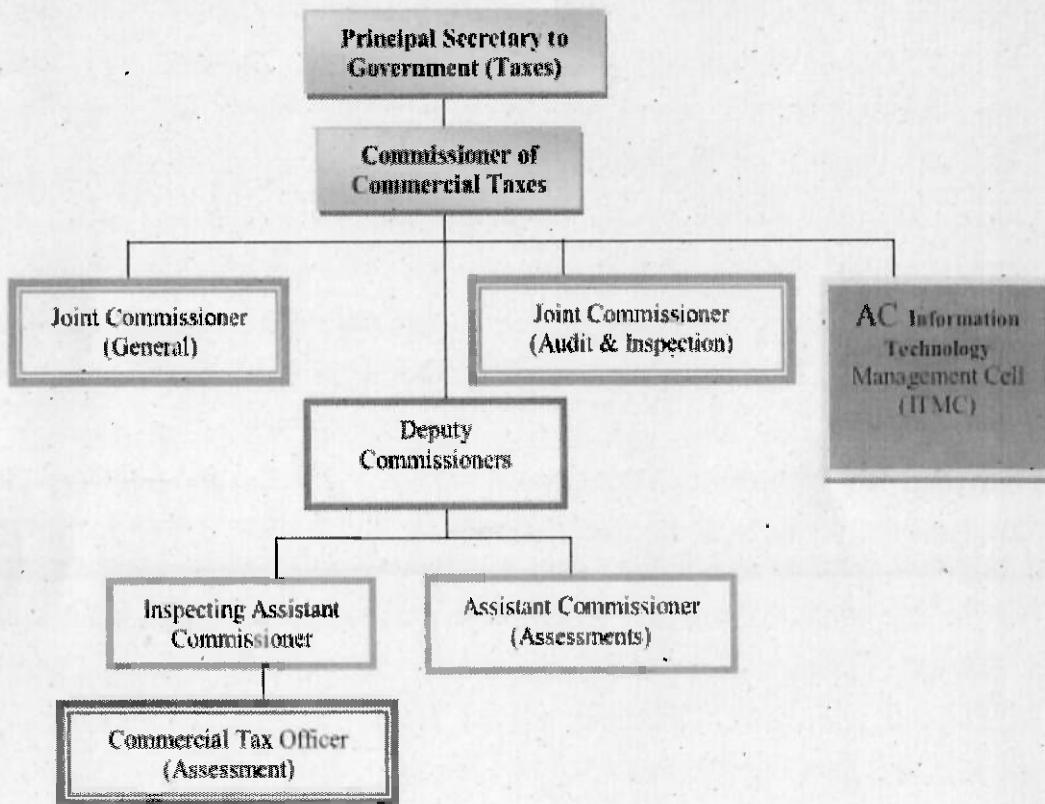
main objective of KVATIS was to develop a user-friendly IT solution for the effective and transparent tax administration with maximum tax collection and thereby reduce the tax evasion and corruption. The project also aimed at greater tax compliance by simplifying the procedures and timely delivery of better services to the stakeholders. The application software became operational during 2007-08.

The system of assessment prevailing under KVAT Act, 2003 is as under:



### 2.4.3 Organisational setup

The organisational setup of the assessment wing of the Department has been shown below:



### 2.4.4 Audit Objectives

The review was conducted to ascertain whether:

- the taxpayers are identified properly and the assessments are done according to provisions of the Act, Rules and orders.
- the assessment criteria has been prescribed for selection of files for detailed scrutiny and if so, the selection was made as per the prescribed criteria.
- a mechanism has been established to monitor internal control and the quality of the assessment orders.

#### 2.4.5. Scope and methodology of audit

The Performance Audit (PA) was conducted between February 2015 and September 2015 covering the period from 2010-11 to 2014-15. Audit selected 36<sup>10</sup> out of the 73 assessment circles in six districts (fifty *per cent*). This selection was based on simple random sampling method. At each assessing officer's level, assessment files were selected through risk analysis based on gross turnover (GTO), commodity dealt, ITC claimed, sales return, check post transactions etc. During the audit, inter-departmental data from Customs department on imports of goods by dealer along with the data from other Central/State Government agencies were gathered to cross verify the same with the inputs provided by the assessees in KVATIS. Various Local Audit Reports covering audit observations relating to KVAT assessments were also reviewed in addition to assessment records maintained at selected units.

An entry conference was conducted on 20 May 2015 with the Principal Secretary (Taxes) wherein the scope and methodology adopted for the PA were explained. An Exit conference was held on 01 December 2015 with the Principal Secretary (Taxes) where-in the audit findings were discussed.

- **Acknowledgement**

Audit acknowledges the co-operation rendered by the Commercial Taxes Department in providing records and other facilities. Audit also acknowledges the co-operation extended by the Customs and Central Excise Department and Income Tax Department for sharing of data, which has become helpful in conducting PA.

10 Thiruvananthapuram - Special Circle, CTO (Works contract), I and II Circles Thiruvananthapuram, Kottayam- Special Circle, CTO (Works contract), II Circle Kottayam and I Circle Changanassery, Ernakulam- Special Circle I, II and III, CTO (Works contract), I and II Circle Ernakulam, Special Circle Mattancherry at Aluva, Special Circle (Produce), CTO (Works contract) Mattancherry, Special Circle Perumbavoor, I and II Circles Kalamassery, I and II Circles Tripunithura and CTO Aluva, Palakkad- Special Circle, CTO (Works contract), I and II Circles Palakkad, Kozhikode- Special Circle I and II, CTO (Works contract), I Circle Kozhikode and CTO Perambra, Kannur- Special Circle, CTO (Works contract), I and II Circles Kannur.

#### **2.4.6 Audit Criteria**

The audit criteria was derived from the following Acts and Rules.

- Kerala Value Added Tax Act, 2003.
- Kerala Value Added Tax Rules, 2005.
- Notifications and Orders issued by Government.
- Circulars and Clarifications issued by the Department.
- Circulars issued by Central Board of Direct Taxes (CBDT) and Central Board of Excise and Customs (CBEC).

#### **2.4.7 Audit findings**

##### **2.4.7.1 Failure to bring dealers under tax net and consequent escapement of turnover from assessment**

Section 15 of the KVAT Act, 2003 stipulates that every dealer whose total turnover in any year is not less than rupees five lakh shall get himself registered under VAT. Further, this turnover shall not apply in case of casual trader, contractors, dealers registered under Central Sales Tax Act, 1956 etc. Section 15 C of the KVAT Act, 2003 envisages that every person who intends to establish an industrial unit may get himself registered.

As of 31 March 2014, a total of 2.20 lakh dealers were registered with the CTD as per the data furnished by the Commissioner of Commercial Taxes (CCT).

The Sixth Economic Census 2013 conducted by the Department of Economics and Statistics revealed that there were 13.41 lakh establishments operating with fixed structure outside the household having different economic activities other than agricultural, service and defence. Moreover, The Economic Review (2014) of the State Planning Board showed that the total number of Small Scale Industries and Micro, Small and Medium enterprises registered in the State as of 31 March 2014 was 2.34 lakh. The CTD had

failed to collect the data available with other Departments like Economic and Statistics, State Planning Board, District Industries Centre, Kerala State Industrial Development Corporation and Kerala Financial Corporation and to make use of the same to analyse and find whether all those dealers who were liable to be registered under the Act were actually registered or not. As per data available in KVATIS, Audit found that the CTD failed to bring all the dealers under tax net who were compulsorily to be registered. This resulted in escapement of dealers from assessment and consequent non levy of tax as narrated in the following paragraphs.

Government stated (December 2015) that measures have been initiated to widen the tax base by introducing a scheme called 'One time incentive to new registrant scheme, by simplifying the registration procedures of entities engaged in electronic commerce etc. However, the details of dealers registered under scheme called for had not been furnished.

- **Non levy of tax on transportation of goods outside the State by non registered dealers<sup>11</sup>**

Audit analysed the data relating to inter-State transaction of goods sent outside the State through various check-posts and found that 140 non-registered dealers transported goods amounting to ₹ 156.82 crore outside the State Appendix III(4). Though this data was readily available with the CTD, no action was taken to register the dealers and levy tax on the transfer of goods. Non levy of tax including interest and penalty worked out to ₹ 26.61 crore.

Analysis of data by Audit revealed that deviation from the provisions of the Act was by 102 dealers by transporting readymade garments having tax effect of ₹ 21.20 crore, 10 dealers in chassis with tax effect of ₹ 0.57 crore, five dealers in tea with tax effect of ₹ 2.72 crore and 23 dealers in multiple commodities with tax effect of ₹ 2.12 crore.

11 Who transported goods valued more than ₹10 lakh, having tax liability.

Government stated (December 2015) that since the security amount collected were not ascertainable from the online system, such transaction will be ascertained from the respective check posts. Reply of the Government is not tenable, as the observation was not about the collection of security amount but transportation of goods by dealers without registration escaping the tax net and consequent loss of revenue to Government.

- **Loss of revenue due to non-registration of Online traders**

Section 2[xliii] of KVAT Act, 2003 defines sales as a transfer of goods in the course of trade for a consideration and Section 2[xv] of the Act defines a 'dealer' as a person who, carries on the business of buying, selling, supplying or distributing goods for cash, or for deferred payment.

In the Online business, the customer can get an online market platform provided by a company, place the order for purchase of his choice from the vast variety of products either by paying cash or deferred payment and the company's responsibility is to deliver the goods at the place of the customer's choice. Since a direct business to customer relationship can be established only at the *situs* of sale, the right of levying tax on the sale lies with the destination State. Hence, the online trade comes under the purview of local sales attracting tax under KVAT Act, 2003 when delivery takes place in Kerala.

Even though there were 30<sup>12</sup> major online dealers in Kerala, Audit found that no action was taken by the Department under the KVAT Act, 2003 to levy tax on the online business taking place in Kerala, except in the case of two dealers who had paid ₹ 3.30 crore as tax during 2014-15. The loss of revenue for the three years 2012, 2013 and 2014 worked out to ₹ 174.33 crore as shown in Table- 2.2.

12. Flipkart.com, Jabong.com, Myntra.com, Snapdeal.com, amazon.in, ebay.in, naaptol.com, yebhi.com, yepme.com, infibeam.com, Homeshop18.com, Shopclues.com, Indiatimes shopping, Rediff shopping, inkfruit.com, pepperfry.com, Fashionara.com, Firstcry.com, Babyoye.com, Zovi.com, Koovs.com, cromaretail.com, Fashionandyou.com, Shopperstop.com, Grabmore.in, Shop.seventymm.com, Tradus.in, Futurebazaar.com, edabba.com and Govasool.com.

Table – 2.2

Items	2012	2013	2014	(₹ in crore)
Total estimated online trading in India	47,400.00	53,400.00	81,600.00	
Estimated towards sales of goods (37%)	17,538.00	19,758.00	30,198.00	
Percentage of Share of State of Kerala (4)	701.52	790.32	1,207.92	
Turnover of Exempted goods (9.46%)	66.36	74.76	114.27	
Turnover of 1% taxable goods (17.50%)	122.77	138.31	211.39	
Turnover of 5% taxable goods (44.06%)	309.09	348.22	532.21	
Turnover of 14.5% taxable goods (28.98%)	203.30	229.03	350.05	
Tax due @ 1%	1.22	1.38	2.11	
Tax due @ 5%	15.45	17.41	26.61	
Tax due @ 14.5%	29.48	33.21	50.76	
Total tax due	46.15	52.00	79.48	
Total due for the three years				177.63
Less Tax Collected				3.30
Balance tax due				174.33

Government stated (December 2015) that online transactions could not be taxed under KVAT Act as there is no explicit provision to tax them. The reply is not tenable as provisions of Section 2[xliii] of the Act cited are enough to bring these online traders under the tax net.

Audit found that the Department was not using various inputs available in KVATIS to monitor the trade activities of unregistered dealers. Audit found that the increase in the number of dealers registered was not commensurate with the number of dealers as reported by other agencies discussed above.

**Recommendation No. 1-** Department may take measures to bring all dealers into the tax net by utilising the inputs available in KVATIS and with other agencies

**[Audit Paragraphs 2.1 to 2.4.7.1 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2015.  
(Revenue Sector)]**

[Note furnished by the Government on the above audit paragraphs is included as Appendix II]

*(Excerpts from the discussion of Committee with officials concerned on 13.03.2024)*

11) While considering the audit observations related to the non levy of tax on transportation of goods outside the State by non-registered dealers and the loss of revenue due to non-registration of Online traders, the Committee enquired about the measures taken to collect ₹174.33 crore towards the loss of revenue for the years 2012, 2013 and 2014. The Deputy Commissioner (C&AG Cell), GST Department submitted that the audit remarks was about unregistered dealers, and the tax evasion had been restricted through GST registration. The Committee accepted the reply.

### **Conclusion/Recommendation**

#### **12) No comments**

##### **2.4.7.2 The system of scrutiny of returns not properly defined in the Act or in any guidelines issued**

Sections 22, 24 and 25 of the Act envisages detailed scrutiny on returns filed. Audit examined whether any criteria existed in CTD regarding selection of files for detailed scrutiny. As per the Act, it is mandatory to verify all the tax returns submitted, but has not been prescribed whether all or any of the return so submitted are to be scrutinised in detail by the assessing authority. The CCT had not issued any instructions regarding criteria for selection of cases for detailed scrutiny. Hence the assessing officers were selecting assessment files for scrutiny arbitrarily.

On introduction of VAT, compulsory assessment was done away with. Scrutiny of returns is the only mechanism to ensure whether legitimate tax due has been remitted to Government account. After the introduction of KVATIS, the Department issued instructions<sup>13</sup> for the scrutiny of returns through KVATIS and the assessing authority was to endorse a certificate in KVATIS to that effect. Audit analysed the quantum of online scrutiny of periodical/annual

returns by assessing officers in twenty<sup>14</sup> assessment units done during 2012-13 and 2013-14 and found the extent of scrutiny to be very meager as shown in Table – 2.3.

Table – 2.3

Year	2012-13	2013-14
Number of dealers in the 20 units selected	17,966	20,139
Number of Periodical Returns filed in the 20 units	2,04,029	2,25,705
Number of Periodical Returns scrutinised	11,703	8377
<b>The percentage of scrutiny of Periodical return</b>	<b>5.73</b>	<b>3.71</b>
Number of Annual returns filed in the 20 units	16,389	18,429
Number of Annual returns scrutinised	247	400
<b>The percentage of scrutiny of Annual return</b>	<b>1.50</b>	<b>2.17</b>

In the absence of scrutiny, assessees, especially dealers having high GTO and dealers dealing in evasion prone commodities will have a tendency to underestimate their liability to pay tax.

Government stated (December 2015) that many parameters have been fixed for selection of returns which are discussed in the review meetings. For improving system based scrutiny, a departmental committee has furnished a detailed proposal which will be implemented as soon as the server constraints are resolved. However, details of implementation of proposals of the Departmental Committee called for had not been furnished (January 2016).

Further, Audit called for the details of scrutiny, both online and manual for the years 2010-11 to 2014-15. However, since online scrutiny commenced only in 2013-14 and the details of manual scrutiny during 2014-15 were not complete, Audit verified the scrutiny for the year 2013-14 conducted in 12

14 CTO, Special Circle, CTO, I and II Circles Thiruvananthapuram, CTO, Special Circle I, II and III and CTO, I and II Circle Ernakulam, CTO, Special Circle and CTO, Special Circle (Produce) Mattancherry, CTO, Special Circle Perumbavoor, CTO I and II Circles Kalamassery, CTO, I and II Circles Tripunithura, CTO, Aluva, CTO, Special Circle I and II, CTO, I Circle, Kozhikode and CTO, Perambra.

Special Circles<sup>15</sup> and found that during the year 2013-14, 735 out of 4,984 assessment files were selected for detailed scrutiny. In the absence of any instructions or guidelines, Audit found that criteria like turnover of the dealer, commodities dealt, the quantum of ITC availed, the volume of goods transported into the State etc, were not adopted in selecting the files for detailed scrutiny. Thus, such adhocism was affecting the transparency in the selection process of files for scrutiny and permitting the assessing officers to use their discretion in selecting files, which was currently unfettered in the absence of such norms/ guidelines/ instructions. An analysis of the dealers with their GTO and selection of their files for detailed audit is shown in Table — 2.4.

Table – 2.4

Year	2013-14
Number of dealers in the twelve special circles	4,984
Number of files selected for scrutiny	735
Number of self assessment reopened and completed	235
Additional tax demand created (₹ in crore)	51.85
Number of top dealers whose GTO is above ₹ 10 crore	1,965
Number of files scrutinised on the top dealers	230
Number of self assessment of the top dealers reopened and completed	75
Additional tax demand created on top dealers (₹ in crore)	44.35
Number of self assessment of other dealers reopened and completed	160
Additional tax demand created on other dealers (₹ in crore)	7.50
Additional tax demand created per file of top dealers (₹ in lakh)	59.13
Additional tax demand created per file of other dealers (₹ in lakh)	4.68

Audit observed that more than thirty *per cent* of the self assessment cases selected for scrutiny were reopened and the assessments were completed by creating additional tax demand. It was noticed that the additional demand created on the files of top dealers was more than twelve times in respect of other dealers.

<sup>15</sup>CTO, Special Circle I, II and III Emakulam, CTO, Special Circle Kottayam, CTO, Special Circle and CTO, Special Circle (Produce) Mattancherry, CTO, Special Circle Perumbavoor, CTO, Special Circle I and II Kozhikode, CTO, Special Circle Palakkad, CTO, Special Circle Kannur and CTO, Special Circle Thiruvananthapuram.

Government stated (December 2015) that instructions have been issued setting forth important criteria. System of centralised selection of files has also been implemented now. However, the details of instructions issued for the selection of files though called for had not been furnished (January 2016).

Audit looked at Central Revenue Departments such as CBDT and CBEC which issues guidelines each year regarding selection of assessees for detailed scrutiny and monitoring mechanism for assessment cases.

Audit found that no such system is existing in the Department for selection of scrutiny of files.

*Recommendation No. 2 - Government may examine the guidelines issued for selection of files for desk review by CBDT/CBEC and similar system of selection with relevant parameters be put in place in the State for VAT cases.*

#### **2.4.7.3 Absence of review mechanism of reports of scrutiny**

As per Circular<sup>16</sup> of CCT every assessing officer should send monthly reports to the jurisdictional Deputy Commissioners (DC) showing the details of scrutiny such as period, number of files selected and results etc., done by them. Audit verified whether these reports were received, reviewed and analysed to see whether the selection of files for scrutiny was fair and adequate and also whether any directions were issued for strict compliance.

Scrutiny of the minutes of the monthly conferences conducted in three districts<sup>17</sup> during 2012-13 by the DCs revealed that though there was lack of scientific approach in the selection of files for detailed scrutiny, no specific directions were issued. The monthly/quarterly reviews were limited only to collection of tax against the target fixed and an analysis of reports of scrutiny was not being done regularly.

Government stated (December 2015) that this has been emphasised in all the review meetings of the Deputy Commissioners. Nodal officer

16 Circular No. 18/2005 dated 17.08.2005 of Commissioner of Commercial taxes

17 Ernakulam, Kannur and Kozhikode

mechanism involving senior officers is in place to monitor every district since 2015. Also that thematic review meeting is conducted periodically for specific areas of evasion of tax. Reply is not acceptable as documents to substantiate the statement were not made available to Audit (January 2016).

*Recommendation No. 3 - The CCT may issue guidelines to the DCs regarding the aspects to be considered while reviewing the monthly/quarterly reports.*

#### **2.4.7.4 Time limit for completion of assessment reopened not prescribed in the statute**

As per Sections 22, 24 and 25 of KVAT Act, 2003, it is mandatory to issue notice to the dealer for being heard about the discrepancies noticed in the return or accounts before proceeding for assessment to the best of assessing authority's judgement. However, there was no provision in the statute fixing a time limit to complete the assessment if no reply is received within the time limit of one to two weeks prescribed in the notice or if the reply received from the dealer is not satisfactory.

In the absence of such a provision in the statute, Audit found that in eight cases<sup>18</sup> out of 120 files test checked in three assessment circles, assessments were not completed even after five years though pre-assessment notices to reopen the self assessments had been issued.

Analysis by Audit revealed that these assessees were engaged in building/ construction business. The assessments of M/s Koroth Gulf Link Builders (P) Ltd were pending since 2010 and that of M/s Heavenly Homes (P) Ltd since 2012, under Commercial Tax Office (Works Contract), Ernakulam.

Thus, non-completion of assessments by the assessing officers in which discrepancies were detected affected the collection of tax.

Government stated (December 2015) that supervisory officers have been directed to have a close monitoring. The directions issued in this regard and compliance there on called for by Audit had not been furnished.

*Recommendation No. 4 - Government may consider fixing the time limit for completion of assessments.*

**[Audit Paragraphs 2.4.7.2 to 2.4.7.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2015. (Revenue Sector)]**

[Note furnished by the Government on the above audit paragraphs is included as Appendix II]

*(Excerpts from the discussion of Committee with officials concerned on 13.03.2024)*

- 13) The Committee accepted the report furnished by the Department on audit paragraphs 2.4.7.2 and 2.4.7.3.
- 14) While considering the audit paragraph 2.4.7.4, the Committee wanted the reason for non submission of RMT for five cases of CTO (WC) Ernakulam. The Deputy Commissioner (C&AG Cell), GST Department submitted that the assessment of the cases mentioned in the audit para had been completed. By accepting the reply the Committee directed to furnish the list of pending cases at the earliest.

#### **Conclusion/Recommendation**

- 15) The Committee directs the Department to submit a report on the action taken on the five cases of CTO, WC, Ernakulam indicated in Audit para. 2.4.7.4 to the Committee within two months.
- 16) The Committee also directs the Department to submit the details of tax collected in cases related to Sherin Builders/2011-12, M/s Zewar

**Commercial Construction(P)Ltd``, 32121229803/2012-13, M/s. Sadananda Realtors, 32121288628/2012-13 to the Committee within two months.**

**2.4.7.5     Lack of a Department Manual to formulate a system in the assessment of tax under KVAT Act, 2003**

A Department manual is essential for regulating and streamlining its functions and activities which has offices functioning throughout the State and has deployed its manpower in all offices. Though there was a manual in the erstwhile KGST regime where the assessment was totally different from VAT, the Department failed to formulate a manual to be followed in VAT assessments even after ten years of introduction of the new system. In the absence of a manual, the following discrepancies were noticed.

**•     Non maintenance of registers**

Audit found that the field offices were not maintaining important registers such as DCB register, Scrutiny register, Audit visit register, Notice issued register, Assessment register, Appeals pending register etc. in connection with the assessment/collection of tax.

In the absence of these registers, the details of important information in an office such as period up to which the returns were scrutinised in the cases of each assessees, details of permission sought received for conducting Audit visit, details of self assessments reopened etc., were not available. The non maintenance of registers affected both transparency in selection of files and effectiveness in collection of tax.

**•     Lack of clarity in the assignment of duty to men in position**

After the introduction of the KVATIS, the works attended by the supporting staff in the assessment circles were considerably reduced due to automation of functions. Thus, the Department could have utilised their service effectively in areas such as scrutiny of returns of presumptive tax dealers/returns with less turnover reported, conduct street survey etc., towards ensuring better tax collection regime.

Audit observed that though the Department issued directions<sup>19</sup> specifying the duties and responsibilities of the Assessing Officers and clerks, the duties mentioned for clerks in the circular were not relevant after the introduction of KVATIS system. The directions were silent on duties and responsibilities of other important categories like Inspector, Junior Superintendent etc.

Government stated (December 2015) that the above issues would be looked into. Further developments in this regard had not been intimated.

*Recommendation No. 5 - Department may prepare a manual detailing all aspects of assessment to ensure uniformity in the system of assessment. Further, it may be ensured that necessary reports are generated automatically from the KVATIS.*

**[Audit Paragraph 2.4.7.5 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2015. (Revenue Sector)]**

[Note furnished by the Government on the above audit paragraph is included as Appendix II]

*(Excerpts from the discussion of Committee with officials concerned on 13.03.2024)*

- 17) When the Committee enquired about the details regarding the non maintenance of registers, the Deputy Secretary, Legislature Secretariat excerpted the report of the department that the online reports were available in the back end module of the GST Department. The Committee accepted the report furnished by the Department.
- 18) The Committee accepted the report furnished by the Department regarding the lack of clarity in the assignment of duty to men in position.

## Conclusion/Recommendation

### **19) No comments**

#### **2.4.7.6 Non adherence to provisions of Act and Rules while completing the assessment**

Sections 22, 24 and 25 of the Act provide for assessment of tax under KVAT. Section 31(5) states that if tax due was not paid in time, interest at the rate of one per cent per month will accrue on it. As per section 67, if any dealer acts in contravention to the provisions of Act and Rules, penalty at twice the rate of tax due from him may be imposed upon him. Specific provisions of the Act/Rule relating to the irregularities are mentioned in the succeeding paragraphs.

Audit scrutinised 3,417 annual returns filed by 1,496 dealers in the selected 36 assessment circles and cross verified the details with other manual and e-data collected and found that the assessing officers failed to follow the provisions in the Act and Rules, which affected the quality of assessment as under.

- **Accounted sales escaping assessment**

Section 42 (1) of KVAT Act, 2003 stipulates that every dealer whose total turnover in a year exceeds rupees sixty lakh shall get his accounts audited annually by a Chartered Accountant or Cost Accountant and shall submit a copy of the audited statement of accounts and certificate in Form 13 & 13A. Section 24(1)(a) of the Act, stipulates rejection of the return, if there is discrepancy between the return filed and audited accounts and to complete the assessment to the "best of judgement". As per section 42(2) of the Act, the dealer is liable to pay any additional tax with reference to the audited figures, interest thereon under Section 31(5) and penal interest at twice the rate of interest accrued.

Audit noticed that in 14 assessment circles, 15 dealers failed to report the accounted sales whereas 14 dealers failed to report the turnover accounted as 'other receipts'.

The 'other receipts' were warranty claim, AMC receipt, trade discount, subsidy or other receipts to make up the loss sustained etc. which were liable for tax. The total turnover escaped from assessment of tax worked out to ₹ 323.22 crore and the resultant short levy of tax including interest under Section 31(5), penal interest and penalty under Section 67 amounted to ₹ 105.30 crore Appendix III(5). The Tax district-wise deviation from provisions of the Act/ Rules is detailed in Table — 2.5.

Table - 2.5

(₹ in crore)

Name of the Tax District	Number of dealers	Turnover escaped	Total Tax due
Deputy Commissioner, Ernakulam	15	139.67	43.38
Deputy Commissioner, Mattancherry	7	114.14	49.02
Deputy Commissioner, Kottayam	3	0.41	0.11
Deputy Commissioner, Palakkad	2	24.82	4.25
Deputy Commissioner, Kozhikode	1	40.28	6.89
Deputy Commissioner, Thiruvananthapuram	1	3.90	1.65
<b>Total</b>	<b>29</b>	<b>323.22</b>	<b>105.30</b>

Audit observed that amongst the defaulters, M/s Hindustan Unilever Limited of Special Circle Mattancherry was the biggest defaulter with tax effect of ₹ 41.61 crore. The nature of business dealt with by other dealers are given below:

- Four in Fast Moving Consumer Goods with tax effect of ₹ 51.09 crore.
- Four in Supermarket with tax effect of ₹ 7.50 crore.
- Three in batteries with tax effect of ₹ 4.50 crore.
- Eighteen in multiple commodities with tax effect of ₹ 42.21 crore.

Thus, failure of assessing officers to adhere to the provisions of the Act and rules resulted in non-detection of irregularities.

- **Failure to report turnover accounted as interstate stock transfer out**

The movement of goods from one State to another State that occasioned otherwise than by way of sale is treated as local sale and tax shall be levied under section 6 of KVAT Act, if the transfer is not supported by statutory Forms.

Audit found that eight<sup>20</sup> out of 17 dealers scrutinised in five assessment circles failed to report in their annual return, the transactions accounted as interstate stock transfer out. The dealers did not report the transaction and also failed to submit statutory Forms to claim exemption. Though statutory declarations were not filed, the assessing officer did not levy tax on the turnover of goods treating it as a local sale. Non-reporting of transactions worth ₹ 384.79 crore resulted in short levy of tax including interest and penalty of ₹ 140.53 crore. The Tax district-wise deviation from provisions of the Act/Rules is detailed in Table – 2.6.

**Table – 2.6**

(₹ in crore)

Name of the Tax District	Number of dealers	Turnover escaped	Total Tax due
Deputy Commissioner, Ernakulam	4	260.83	94.27
Deputy Commissioner, Palakkad	2	10.1	1.59
Deputy Commissioner, Mattancherry	1	110.72	43.54
Deputy Commissioner, Thiruvananthapuram	1	3.14	1.13
<b>Total</b>	<b>8</b>	<b>384.79</b>	<b>140.53</b>

20 Asian Paints Ltd ₹ 10.50 crore), Mondelez India Foods Limited, ₹ 68.37 crore), Parle Biscuits (P) Ltd. ₹ 14.18 crore), Concord Enterprises ₹ 1.22 crore), Hindustan Unilever Limited ₹ 43.54 crore), South Indian Federation of Fishermen ₹ 1.13 crore), Kiran Global Chems Ltd ₹ 1.17 crore), Precot Meridian Limited ₹ 0.42 crore).

Audit observed that amongst the defaulters, M/s Mondelez India Foods Limited of Special Circle II Ernakulam was the biggest defaulter with tax effect of ₹ 68.37 crore.

- **Turnover exempted without mentioning the nature of exemption**

As per Rule 10 of the KVAT Rules, 2005, the allowable deductions from the local sale of taxable goods are (1) sale of goods to units in Special Economic Zone (SEZ) (2) sale to his agent or principal (3) sale of medicines purchased on invoices in Form 8H.

Audit found that in case of 25 out of 42 dealers whose returns scrutinised in nine assessment circles, the assessees availed exemption of turnover of ₹ 671.45 crore from their local sales turnover without mentioning the nature of exemption. Since no exemption is allowable from the local sales of a dealer under the Act other than those mentioned above, the exemption availed was not in order. However, the assessing authority accepted the returns without assessing the irregular exemptions. This resulted in short levy of tax including interest under Section 31(5) and penalty under Section 67 of ₹ 234.89 crore Appendix III(6). The Tax district-wise deviation from provisions of the Act/Rules is detailed in Table – 2.7.

Table – 2.7

Name of the Tax District	Number of dealers	Turnover of exemption availed	Total Tax due
Deputy Commissioner, Ernakulam	17	476.68	196.99
Deputy Commissioner, Thiruvananthapuram	2	22.66	5.07
Deputy Commissioner, Kottayam	2	68.38	10.59
Deputy Commissioner, Mattancherry	1	24.31	9.84
Deputy Commissioner, Kozhikode	1	3.87	1.25
Deputy Commissioner, Palakkad	1	32.78	4.44
Deputy Commissioner, Kannur	1	42.77	6.71
<b>Total</b>	<b>25</b>	<b>671.45</b>	<b>234.89</b>

Audit observed that amongst the defaulters, M/s Indian Oil Corporation of Special Circle II Ernakulam was the biggest defaulter with tax effect of ₹ 148.64 crore. The nature of business dealt by these dealers are indicated below:

- Four in Automobiles with tax effect of ₹ 38.79 crore.
- Three in Hill produce with tax effect of ₹ 15.02 crore.
- Three in Fast Moving Consumer Goods with tax effect of ₹ 11.69 crore.
- Fifteen in multiple commodities with tax effect of ₹ 169.39 crore.

Audit noticed that M/s Indian Oil Corporation, M/s Concorde Motors India Ltd of Special Circle II Ernakulam, M/s Hindustan Unilever Limited of Special Circle Mattancherry and National Handloom Development Corporation Ltd. of CTO, II Circle, Kannur repeated the default for three years.

- **Irregular exemption of sales to units situated in Special Economic Zone**

As per Section 6(7)(b) of the KVAT Act, 2003, sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any SEZ in the State for setting up the unit or use in the manufacture of other goods shall, subject to such conditions or restrictions, as may be prescribed, shall be exempted from tax.

Audit found that eight out of 14 dealers whose returns were scrutinised in four assessment circles, under Deputy Commissioner, Ernakulam, the assessees availed exemption of turnover of ₹ 108.97 crore treating it as the sales to units situated in SEZ. Audit found that the goods sold were surgical equipments, furniture, computers, electronic goods, petroleum, furnace oil, etc. Since these goods do not fall under the exempted category of goods as mentioned in Section 6(7)(b), the exemption availed was irregular. Lack of scrutiny by assessing officers even though the data was available in KVATIS

resulted in short levy of tax including interest and penalty works out to ₹ 43.80 crore Appendix III(7).

Audit observed that amongst the defaulters, M/s Bharat Petroleum Corporation Ltd. of Special Circle II, Ernakulam was the biggest defaulter with tax effect of ₹ 15.60 crore.

Audit noticed that M/s Bharat Petroleum Corporation Ltd and M/s Blue Star Limited of Special Circle II, Ernakulam repeated the default for three years.

- **Turnover exempted without furnishing the statutory documents**

As per Rule 10 of the KVAT Rules, the dealer is entitled to deduct the turnover if the turnover is supported by Form 43, Form 25F, Form 8H invoices, Form E 1 or the documents supporting high sea sales as the case may be.

Audit observed that 22 out of 37 dealers in 12 assessment circles exempted a turnover of ₹1,007.71 crore by claiming that the goods were sold (1) to a unit situated in SEZ, (2) through auction (3) as tax previously suffered on its MRP. However, no statutory documents such as Form 43, Form 25F or Form 8H, were produced to prove their claims. Audit found that the assessing officers were not completing the assessments, even in the absence of such statutory declarations. In the absence of such statutory forms, the exemption claimed was not in order resulting in short levy of tax including interest u/s 31(5) and penalty u/s 67 amounting to ₹ 151.38 crore Appendix III(8). The Tax district-wise deviation from provisions of the Act/Rules is detailed in Table – 2.8.

Table - 2.8

(₹ in crore)

Name of the Tax District	Number of dealers	Turnover exempted	Total Tax due
Deputy Commissioner, Ernakulam	7	108.04	20.07
Deputy Commissioner, Mattancherry	5	342.89	50.70
Deputy Commissioner, Kozhikode	5	46.75	6.71
Deputy Commissioner, Kottayam	3	422.72	62.09
Deputy Commissioner, Thiruvananthapuram	2	87.31	11.81
<b>Total</b>	<b>22</b>	<b>1007.71</b>	<b>151.38</b>

Audit observed that amongst the defaulters, M/s JMJ Traders of Special Circle Kottayam was the biggest defaulter with tax effect of ₹ 51.37 crore. The nature of business dealt by these dealers are as follows:

- Seven in Medicine with tax effect of ₹ 40.79 crore.
- Five in Tea auction with tax effect of ₹ 50.70 crore.
- Six were sellers to Special Economic Zone with tax effect of ₹ 58.55 crore.
- Four were sub contractors with tax effect of ₹ 1.34 crore.
- **Output Tax (OPT) reversed without furnishing requisite documents**

As per Rule 10 of KVAT Rules, 2005, the dealer is entitled to deduct from his turnover, all amounts allowed to purchasers in respect of goods returned by them, where the goods are taxable on the amount for which they have been sold. Section 41 of the Act stipulates that the selling dealer shall issue credit notes and the purchaser effecting the sales return shall issue debit notes in Form No.9. Proviso to Rule 59 states that a credit note claim shall be supported by debit notes.

Audit observed that 27 out of 41 dealers whose returns were scrutinised in ten assessment circles had adjusted ₹ 19.66 crore from their tax due, claiming it as the tax element on sales return. However, the claim was not supported by the corresponding debit notes issued by the purchasers to the credit note of the dealers. Lack of scrutiny by assessing officer resulted in escapement of such omissions undetected. The short

levy of tax on this account worked out to ₹ 64.45 crore. The Tax district-wise deviation from provisions of the Act/Rules is detailed in Table – 2.9.

Table – 2.9

Name of the Tax District	Number of dealers	Tax on sales return reversed	(₹ in crore) Total Tax due
Deputy Commissioner Ernakulam	16	3.96	12.78
Deputy Commissioner Thiruvananthapuram	4	13.69	45.12
Deputy Commissioner Mattancherry	3	1.08	3.42
Deputy Commissioner Kannur	1	0.38	1.30
Deputy Commissioner Kottayam	2	0.08	0.26
Deputy Commissioner Kozhikode	1	0.47	1.57
<b>Total</b>	<b>27</b>	<b>19.66</b>	<b>64.45</b>

Audit observed that amongst the defaulters, M/s TV Sundaram Iyenger & Sons Private Limited of Special Circle Thiruvananthapuram was the biggest defaulter with tax effect of ₹ 44.20 crore.

Audit noticed that M/s Nestle India Limited and M/s Prism Cement Limited of Special Circle I Ernakulam repeated the default for three years and M/s T.V Sundram Iyengar & Sons Private Limited of Special Circle Thiruvananthapuram repeated the default for four years.

- **Excess claim of special rebate**

As per Section 12(1) of the Act, a dealer is entitled to deduct from the tax payable by him, a sum equal to the tax paid under sub-Section (2) of Section 6 where such goods are intended for resale or for use in the manufacture of taxable goods or for use in the execution of works contract or for use as containers or packing materials for the packing of taxable goods in the state.

Audit noticed that three out of seven dealers whose returns were scrutinised in two assessment circles had availed special rebate of ₹ 6.13 crore against a purchase tax due/paid amounting to ₹ 5.97 crore during the year 2012-13. Since the claim of special rebate cannot be in excess of purchase tax due, the excess claim of special rebate resulted in short levy of tax including interest and penalty of ₹ 0.51 crore as shown in Table – 2.10.

Table – 2.10

Name of the office	Name of the dealer	TIN	Special rebate available (purchase tax due plus paid)	Special rebate claimed	Short levy including interest and penalty (₹ in crore)
CTO, Special Circle, Kottayam	JMJ Traders	32051107585	0.21	0.28	0.23
	St Mary's Rubbers Pvt. Limited	32050276345	4.09	4.13	0.12
CTO, Special Circle III, Ernakulam	Rubber Mark	32070491155	1.67	1.72	0.16
	<b>Total</b>		<b>5.97</b>	<b>6.13</b>	<b>0.51</b>

- Non reversal of ITC on interstate sale of rubber**

The Government, through a notification<sup>21</sup>, exempted the payment of tax on the interstate sale of natural rubber subject to the condition that the natural rubber has suffered tax under the Act. The CCT issued direction<sup>22</sup> that if the sale of a goods is exempted through notification, no ITC shall be allowed on the purchase turnover of such goods sold during interstate.

Audit found that two out of eight dealers whose returns were scrutinised in two assessment circles were liable to reverse their ITC claim of ₹ 2.33 crore, being the tax suffered on the purchase turnover of rubber sold interstate, but reversed only ₹ 2.08 crore. This resulted in short payment of tax including interest and penalty of ₹ 0.83 crore as shown in Table – 2.11.

21 SRO 753/2011.

22 Circular No. 17/2013.

Table – 2.11

Name of the office		Name of the dealer	TIN	Year	IPT to be reversed	IPT reversed	Short levy including interest and penalty (₹ in crore)
CTO, Special Circle, Kottayam	St Mary's Rubbers Pvt. Limited	32051107585	2012-13 2013-14	2012-13	0.17	0	0.56
				2013-14	0.04	0	0.13
CTO, Special Circle III, Ernakulam	Rubber Mark	32070491155	2012-13	2.12	2.08	2.08	0.14
Total				2.33	2.08	2.08	0.83

Government stated (December 2015) that detailed verification was needed in all the cases pointed out and that final report will be submitted after verification. Audit feels that the Government may explore the possibilities of investigation in all the cases.

- Irregular claim of exemption from the contract receipt by dealers who opted to pay tax under compounding scheme**

As per Section 8(a) of the Act, a dealer, instead of paying tax under Section 6, can opt for payment of tax at the rate stipulated for the whole amount of contract. As such, a dealer who opted to pay tax under Section 8(a), is not eligible to deduct any amount from the contract receipt received by him. This position was upheld in a judicial review by the High Court of Punjab and Haryana<sup>23</sup>.

Audit found that 12 out of 22 works contractors/ builders in four assessment circles had availed exemption of the value of land amounting to ₹ 33.14 crore from their contract receipt to arrive at the taxable turnover. This is against the provisions of the Act and had resulted in short payment of tax including interest and penalty of ₹ 3.30 crore Appendix III(9). The Tax district-wise deviation from provisions of the Act/Rules is detailed in Table-2.12.

<sup>23</sup>CWP Case No.5730 of 2014 in CHD Developers Vs The State of Haryana and others.

Table – 2.12

(₹ in crore)

Name of the Tax District	Number of dealers	Turnover exempted	Total Tax due
Deputy Commissioner Palakkad	4	5.47	0.53
Deputy Commissioner Ernakulam	3	4.11	0.40
Deputy Commissioner Kozhikode	3	17.05	1.75
Deputy Commissioner Kannur	2	6.51	0.62
<b>Total</b>	<b>12</b>	<b>33.14</b>	<b>3.30</b>

Audit observed that amongst the defaulters, M/s Hilite Builders of Works Contract Office, Kozhikode was the biggest defaulter with tax effect of ₹ 1.19 crore. Audit noticed that M/s Pazheri Properties & Developers (P) Ltd of Works Contract Office Kozhikode repeated the default for three years.

Audit found that acceptance of returns of the dealers who were not adhering to the provisions in the statute led to evasion of tax.

Government stated (December 2015) that the Law department had opined that land value was excluded in the works contract. Reply was not tenable as the audit objection was based on provisions of the Act which had also been upheld judicially.

**[Audit Paragraph 2.4.7.6 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2015. (Revenue Sector)]**

[Note furnished by the Government on the above audit paragraph is included as Appendix II]

*(Excerpts from the discussion of Committee with officials concerned on 13.03.2024)*

20) When the Committee enquired about the action taken in the cases described in the audit observation “Accounted sales escaping assessment”, the Deputy Secretary, Legislature Secretariat stated that no further action was required as the dealers had remitted the amount in Sl No. 1, 3, 7, 9, 20 and 23 and submitted the supporting documents to claim exemptions in Sl No. 2, 4, 5,

6, 8, 10, 11, 12, 13, 14, 16, 17, 18, 19, 24, 25, 26, 27, 29 and 30 in Appendix III(5). The Committee accepted the reply furnished by the Department.

21) While discussing the audit observation in the case related to Hindustan Unilever Limited, 32150254454/2013-14, CTO, Special Circle, Mattancherry, Aluva, the Committee pointed out that the Government in its reply stated that the amount mentioned in the C&AG Report as "other receipts not returned" could not be traced out from the returns and audit report filed by the assessee. The Deputy Commissioner (C&AG Cell), GST Department submitted that the verification of the book of records revealed that the variation was due to the inclusion of tax in the sales turnover and that issue was rectified by separating the tax component from the sales turnover. The Committee accepted the reply furnished by the Department.

22) The Committee wanted to know the recovery status of the case regarding Paragon Steels (P) Ltd., 32090250802/2013-14, CTO, Special Circle, Palakkad, The Deputy Commissioner (C&AG Cell), GST Department submitted that a few amounts had been collected and revenue recovery measures were being initiated to collect the dues. The Committee urged to submit the final report regarding it to the Committee urgently.

23) When the Committee enquired about the status of appeal in the case related to T.V. Sundaram Iyengar & Sons Ltd.32010188782/2013-14, CTO, Special Circle, Thiruvananthapuram, the Deputy Commissioner (C&AG Cell), GST Department submitted that the appeal had been disposed and the modification was pending. By accepting the reply the Committee directed to furnish the final report regarding it to the Committee at the earliest.

24) When the Committee directed to give an explanation regarding the case related to Amala Super Market, 32050649856/2013-14, CTO, II Circle, Kottayam, the Deputy Commissioner (C&AG Cell), GST Department submitted

that the difference in turnover was due to the failure in disclosing the sales turnover of non taxable goods. The Committee accepted the reply furnished by the department.

25) While considering the cases pointed out in the audit para "Failure to report turnover accounted as interstate stock transfer", the Deputy Secretary, Legislature Secretariat informed that as per the direction of the Committee, the Cases from SI No. 1 to 7 had been settled through the discussions held between the Accountant General and the Department concerned. The Committee accepted it.

26) While considering the cases pointed out in the audit observation "Turnover exempted without mentioning the nature of exemption," the Deputy Secretary, Legislature Secretariat informed that no further action was required as the dealers had remitted the requisite amounts mentioned in SI No. 8, 14, 24, 25, 26, 35, 36 and 37 and also submitted the supporting documents to claim exemptions in cases related to SI No. 2, 5, 6, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 22, 23, 27, 28, 29, 30, 31, 32, 33 and 34 in Appendix III(6). The Committee accepted the reply.

27) When the Committee directed to give a reply regarding the case related to the Pest Control (India) Pvt.Ltd. 32070287182/2012-13, CTO, Special Circle I, Ernakulam, the Deputy Commissioner (C&AG Cell), GST Department submitted that notice for modification had been issued. The Committee accepted the reply and directed to furnish the final report thereon to the Committee urgently.

28) When the Committee directed to give reply on the case related to Ashok Leyland Ltd. 32071200174/2013-14 CTO, Special Circle I, Ernakulam, the Deputy Commissioner (C&AG Cell), GST Department submitted that notice for

modification had been issued. On accepting the reply the Committee directed to submit a report after completing the action.

29) When the Committee directed to give an explanation regarding the case related to Indian Oil Corporation Ltd. 32070300862/2011-12 , CTO, Special Circle II, Ernakulam, the Deputy Commissioner (C&AG Cell), GST Department submitted that the notice issued under Section 25(1) of the KVAT Act 2003 had been stayed by the Hon'ble High Court and the case was currently pending. The Committee accepted the reply.

30) When the Committee wanted to give an explanation regarding the case related to HCL Infosystems Ltd., 32070312742/2011-12, CTO, Special Circle II, Ernakulam, the Deputy Commissioner (C&AG Cell), GST Department informed that the issue therein was the inclusion of the labour charge and that had been rectified by separately assessing the labour component. The Committee accepted the reply.

31) When the Committee directed to give an explanation regarding the case related to V-Star Creations Pvt Ltd., 32070438652/2013-14, CTO, Special Circle III, Ernakulam, the Deputy Commissioner (C&AG Cell), GST Department submitted that the modification had been completed and found that it was non taxable. The Committee accepted the reply.

32) Regarding the audit observation related to "Irregular exemption of sales to units situated in Special Economic Zone", the Deputy Secretary, Legislature Secretariat informed the Committee that no further action was required as the dealers concerned had submitted the supporting documents related to the objections pointed out in Sl No. 1, 2, 3, 4, 5, 6, 7, 10, 11 and 12 in Appendix III(7). The Committee accepted it.

33) While discussing the case related to SFO Technologies Digital Pvt Ltd. 32070415803/2011-12, CTO, Special Circle III, Ernakulam, the Committee

enquired about the present status of the Writ Petition filed before the Hon'ble High Court. The Deputy Commissioner (C&AG Cell), GST Department submitted that though the Writ Petition had been disposed of, an appeal filed in that regard was still pending. Further, the Committee enquired for an explanation regarding the another case related to SFO Technologies for the year 2012-13. The Deputy Commissioner (C&AG Cell), GST Department submitted that the assessment had been completed. The Committee directed to furnish a final report regarding the two cases pointed out by the audit at the earliest.

- 34) When the Committee directed to furnish an explanation regarding the case related to Outsource Partners International Pvt Ltd32071382201/2013-14, CTO, II Circle, Kalamassery, the Deputy Commissioner (C&AG Cell), GST Department submitted that Input Tax Credit had not been availed, and the Committee accepted the reply.
- 35) When the Committee enquired an explanation regarding the case related to M/s Honey Automation India Ltd for the years 2012-13 and 2013-14, the Deputy Commissioner (C&AG Cell), GST Department submitted that notice had already been issued in the aforementioned cases. The Committee directed to furnish the final report regarding the said case at the earliest.
- 36) While considering the audit observation in connection with the "Turnover exempted without furnishing the statutory documents" the Deputy Secretary, Legislature Secretariat submitted that no further action was required as the dealers had remitted the amounts mentioned in Sl No. 1, 2, 6, 9, 10, 11, 29, 30 & 31 and also submitted the supporting documents in connection with the objections pointed out in Sl No. 3, 4, 5, 7, 8, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 27, 28 and 32 in Appendix III(8). The Committee accepted the reply.

37) When the Committee wanted an explanation regarding the case related to Amrita Enterprises (P), Ltd, 32010108524/2011-12 CTO, Special Circle, Thiruvananthapuram, the Deputy Commissioner (C&AG Cell), GST Department submitted that notification had been completed and the same had been proved in the second stage of the case. The Committee accepted the reply.

38) When the Committee wanted to furnish the reply regarding the case related to Outsource Partners International Pvt. Ltd., 32071382201/2013-14, CTO, II Circle, Kalamassery, the Deputy Commissioner (C&AG Cell), GST Department submitted that Input Tax Credit had not been availed. The Committee accepted the reply.

39) Regarding the audit observation in connection with Output tax (OPT) reversed without furnishing requisite documents, the Deputy Secretary, Legislature Secretariat informed that no further action was required as the dealers had remitted the amounts in SI Nos. 1, 2, 3, 5, 6, 7, 8, 9, 16, 23 and 31 and also submitted the supporting documents in connection with the objections raised by the audit in SL Nos. 4, 27, 28, 29, 30, 36 & 39. The Committee accepted the reply.

40) When the Committee enquired about an explanation regarding T.V. Sundaram Iyengar and Sons Private Limited 32010188782/2010-11, 2011-12, 2012-13 and 2013-14 CTO, Special Circle, Thiruvananthapuram, the Deputy Commissioner (C&AG Cell), GST Department submitted that modification was pending and notice had been issued. The Committee directed to submit a report after completing the action at the earliest.

41) While considering the audit observation in connection with the “ Excess claim of special rebate”, the Deputy Secretary, Legislature Secretariat apprised that no further action was required as the dealers had remitted the amounts

mentioned in Sl No. 1 & 3 and submitted the supporting documents in connection with Sl No. 2. The Committee accepted the report.

42) While considering the audit observation in connection with Non reversal of ITC on interstate sale of rubber, the Deputy Secretary, Legislature Secretariat mentioned that no further action was required as the dealers had remitted the amount in Sl No. 3 and submitted the supporting documents in Sl No. 1 & 2. The Committee accepted it.

43) Regarding the "Irregular claim of exemption from the contract receipt by dealers paying tax at compounded rate", the Deputy Secretary, Legislature Secretariat informed that no further action was required as the dealers had remitted the amount mentioned in Sl No. 1, 3, 4, 5, 9, 10, 13, 16, 17, 20 and 21 and also submitted the supporting documents in connection with Sl No. 11, 12 and 18. The Committee accepted the report submitted by the department.

44) When the Committee enquired about the observation related to Classic Builders 32091640863/2012-13, CTO (WC), Palakkad, the Deputy Commissioner (C&AG Cell), GST Department submitted that M/S Classic Builders had remitted the amount. The Committee accepted the reply.

45) When the Committee directed to give an explanation on the case related to Chanthankulam Projects & Developers (P) Ltd., 32091659717/ 2011-12, CTO (WC), Palakkad, the Deputy Commissioner (C&AG Cell), GST Department submitted that the Writ Petition regarding the case was pending before the Hon'ble High Court. The Committee directed to furnish the final report regarding the said case.

46) When the Committee directed to give an explanation regarding the case in connection with Chanthankulam Projects & Developers (P) Ltd 32091659717/ 2012-13, CTO (WC), Palakkad, the Deputy Commissioner (C&AG Cell), GST Department submitted that the Writ Petition regarding the case was still pending

before the Hon'ble High Court. The Committee directed to furnish the final reply regarding the said case at the earliest.

47) Regarding the case related to Rajan K, 32589750916/2012-13 CTO (WC), Palakkad, the Deputy Commissioner (C&AG Cell), GST Department informed that the copy of the document of property sale had been submitted, and the case had been proved in the appeal. When the Senior Audit Officer pointed out that a case in that regard was pending before the Court. The Committee urged the department to furnish the details regarding the said case and also decided to review the case after getting disposal from the court.

48) When the Committee enquired about an explanation regarding the case related to M/s Pentium Construction 32111514595/2011-12, CTO (WC), Kozhikode, the Deputy Commissioner (C&AG Cell), GST Department submitted that revenue recovery measures were being taken. The Committee directed the department to furnish a final reply after all the procedures were being completed.

49) When the Committee enquired whether the stay order in connection with M/s Pentium Construction 32111514595/2012-13, CTO (WC), Kozhikode had been vacated, the Deputy Commissioner (C&AG Cell), GST Department submitted that the Tribunal Stay had not been vacated. The Committee directed the department to furnish the final reply after the completion of all the procedures immediately.

50) Regarding the case related to M/s Oxoniya Builders and Developers (P) Ltd 32072022628/2013-14, CTO (WC), Ernakulam, the Deputy Commissioner (C&AG Cell), GST Department submitted that revenue recovery measures were being initiated.

### **Conclusion/Recommendation**

- 51) The Committee directs the Department to submit a report on present status of the revenue recovery proceedings initiated in connection with Paragon Steels (P) Ltd., 32090250802/2013-14, CTO, Special Circle, Palakkad within two months.**
- 52) The Committee directs the Department to submit detailed report on the assessment made and collection of dues if any in connection with Pest Control (India) Pvt.Ltd. 32070287182/2012-13, CTO, Special Circle I, Ernakulam, at the earliest.**
- 53) The Committee directs the Department to submit detailed report on the assessment made and realisation of dues if any in connection with M/s Ashok Leyland Ltd. 32071200174/2013-14 CTO, Special Circle I, Ernakulam, at the earliest.**
- 54) The Committee directs the Department to furnish present status of the case filed before the Hon'ble High Court in connection with Indian Oil Corporation Ltd. 32070300862/2011-12, CTO, Special Circle II, Ernakulam.**
- 55) The Committee directs the Department to furnish present status of the Writ Appeal filed by SFO Technologies Digital Pvt Ltd. 32070415803/2011-12, CTO, Special Circle III, Ernakulam, and a detailed report regarding the assessment made and collection of dues for the year 2012-13.**
- 56) The Committee directs the Department to submit detailed report on the assessment made and realisation of dues in connection with M/s Honey Automation India Ltd for the years 2012-13 and 2013-14 within two months.**
- 57) The Committee directs the Department to submit detailed report on the assessment made and realisation of dues in connection with T.V. Sundaram Iyengar and Sons Private Limited 32010188782/2010-11, 2011-**

12, 2012-13 and 2013-14 CTO, Special Circle, Thiruvananthapuram, within two months.

58) The Committee directs the Department to furnish present status of the two Writ Petitions filed before the Hon'ble High Court by Chanthankulam Projects & Developers (P) Ltd., 32091659717, 2011-12 and 2012-13, CTO (WC), Palakkad.

59) The Committee directs the Department to furnish a report regarding present status of the case filed by Rajan K, 32589750916/2012-13 CTO (WC), Palakkad at the earliest.

60) The Committee directs the Department to furnish a detailed report after completing the revenue recovery measures initiated in connection with M/s Pentium Construction 32111514595/2011-12, CTO (WC), Kozhikode.

61) The Committee directs the Department to furnish present status of the case filed by M/s Pentium Construction 32111514595/2012-13, CTO (WC), Kozhikode.

62) The Committee directs the department to furnish the current status of revenue recovery procedures initiated in connection with M/s. Oxoniya Builders and Developers (P)Ltd, 32072022628/2013-14, CTO(WC), Ernakulam.



Thiruvananthapuram,  
28<sup>th</sup> January 2026

SUNNY JOSEPH,  
Chairperson,  
Committee on Public Accounts.

## APPENDIX I

### SUMMARY OF MAIN CONCLUSIONS / RECOMMENDATIONS

Sl No.	Para No.	Department concerned	Conclusion / Recommendation
1	15	Taxes	The Committee directs the Department to submit a report on the action taken on the five cases of CTO, WC, Ernakulam indicated in Audit para. 2.4.7.4 to the Committee within two months.
2	16	Taxes	The Committee also directs the Department to submit the details of tax collected in cases related to Sherin Builders/2011-12, M/s Zewar Commercial Construction(P)Ltd, 32121229803/2012-13, M/s. Sadananda Realtors, 32121288628/2012-13 to the Committee within two months.
3	51	Taxes	The Committee directs the Department to submit a report on present status of the revenue recovery proceedings initiated in connection with Paragon Steels (P) Ltd., 32090250802/2013-14, CTO, Special Circle, Palakkad within two months.
4	52	Taxes	The Committee directs the Department to submit detailed report on the assessment made and collection of dues if any in connection with Pest Control (India) Pvt.Ltd. 32070287182/2012-13, CTO, Special Circle I, Ernakulam, at the earliest.
5	53	Taxes	The Committee directs the Department to submit detailed report on the assessment made and realisation of dues if any in connection with M/s Ashok Leyland Ltd. 32071200174/2013-14 CTO, Special Circle I,

Sl No.	Para No.	Department concerned	Conclusion / Recommendation
			Ernakulam, at the earliest.
6	54	Taxes	The Committee directs the Department to furnish present status of the case filed before the Hon'ble High Court in connection with Indian Oil Corporation Ltd. 32070300862/2011-12, CTO, Special Circle II, Ernakulam.
7	55	Taxes	The Committee directs the Department to furnish present status of the Writ Appeal filed by SFO Technologies Digital Pvt Ltd. 32070415803/2011-12, CTO, Special Circle III, Ernakulam, and a detailed report regarding the assessment made and collection of dues for the year 2012-13.
8	56	Taxes	The Committee directs the Department to submit detailed report on the assessment made and realisation of dues in connection with M/s Honey Automation India Ltd for the years 2012-13 and 2013-14 within two months.
9	57	Taxes	The Committee directs the Department to submit detailed report on the assessment made and realisation of dues in connection with T.V. Sundaram Iyengar and Sons Private Limited 32010188782/2010-11, 2011-12, 2012-13 and 2013-14 CTO, Special Circle, Thiruvananthapuram, within two months.
10	58	Taxes	The Committee directs the Department to furnish present status of the two Writ Petitions filed before the Hon'ble High Court by Chanthankulam Projects & Developers (P) Ltd., 32091659717, 2011-12 and 2012-

Sl No.	Para No.	Department concerned	Conclusion / Recommendation
			13, CTO (WC), Palakkad.
11	59	Taxes	The Committee directs the Department to furnish a report regarding present status of the case filed by Rajan K, 32589750916/2012-13 CTO (WC), Palakkad at the earliest.
12	60	Taxes	The Committee directs the Department to furnish a detailed report after completing the revenue recovery measures intiated in connection with M/s Pentium Construction 32111514595/2011-12, CTO (WC), Kozhikode.
13	61	Taxes	The Committee directs the Department to furnish present status of the case filed by M/s Pentium Construction 32111514595/2012-13, CTO (WC), Kozhikode.
14	62	Taxes	The Committee directs the department to furnish the current status of revenue recovery procedures initiated in connection with M/s. Oxoniya Builders and Developers (P)Ltd, 32072022628/2013-14, CTO(WC), Ernakulam.

**APPENDIX II**  
**Notes Furnished by the Government**



Action Taken Report on the observations contained in the Report of the  
 Comptroller and Auditor General of India for the year ended on 31<sup>st</sup>  
 March 2015 (Revenue Receipts)

Para No.	Observations / recommendations	Action taken
1.1	<p>Trend of Revenue Receipts.</p> <p>(Non tax revenue raised during the year 2014-15)</p> <p>Shortfall in revenue collection against budget estimate.</p>	<p>The main and major item of revenue of the Department is from the sale proceeds of timber and other Forest produce, especially from teak timber. Other items of revenue generation are leases, license fee, hire of boats, rent on buildings, fines and forfeiture etc which are comparatively meager and much lesser than sale proceeds of timber. Revenue target based Budget Estimates for revenue are fixed predominantly based on probable output of timbers that could be extracted from the plantations ripe for final felling, on attaining rotation age as also as per Working Plan prescriptions as approved by Government of India, in that particular financial year. However, on account of myriad reasons as below mentioned including those that are beyond the control of the Department, annual revenue collection fall short of budget estimate in terms of revenue.</p> <p>(1) Timber extraction is a long drawn and laborious process ranging from enumeration of all trees in the expansive area of plantation, assessing the expected output of timber from the whole plantation, marking of all trees in a</p>

plantation, felling of marked trees, conversion and physical measurement of timber, transportation of timber to Timber Depots and all other items like poles, firewood etc to the Duping Depot for auction sale. In the sales Depot further measuring and stocktaking of transported timber being done and thereafter stacking and lotting are finally made to facilitate e-auction sale of timber through MSTC. At times, these extraction processes could not be finished in the targeted financial year itself, but it slipped into the very next year. Resultantly, revenue targeted in a financial year also got slipped into very next year.

(2) Timber operations are a labour intensive process and labour contents are involved in almost all stages of timber operations right from enumeration and making to transportation to Sales Depots, which also play a dominant role in achieving annual revenue target. Acute labor problems in some segments coupled with contractual obligations and regional labour disputes at times adversely affects timber operations which act as bottleneck in achieving annual revenue target.

(3) In fact, expiry of working plan has also adversely affected timely completion of timber extraction. Similar incidents were reported from High Range Circle.

(4) Illegal occupations in teak plantations due for final felling by encroacher has also resulted in non execution of timber operations. Similar incidents were reported for Northern Circle. More often than not, the above elucidated aspects adversely

		<p>affects timber operation works which factor into non-achievement of annual revenue target. However, considering surging market value and demand of teak timber and as well as volume growth of timber, delay in timber operations will never cause loss of revenue.</p>
1.2	Analysis of Arrears of Revenue - realizing arrears of revenue to the tune of Rs.411.55 Crore outstanding to Government as on 31/03/2015.	<p>It is submitted that arrears of revenue as on 31.03.2015 of the department was Rs.411.55 crore. Out of this Rs.367.20 crore was due from public sector undertakings like Kerala State Electricity Board Ltd. (KSEB) - (Rs.130.66 crore) The Plantation Corporation of Kerala Ltd. (PCK) (Rs.16.78 crore) State Farming Corporation of Kerala Ltd. (SFCK) (Rs.9.76 crore) etc. which are the major arrears. Out of this, Government vide G.O.(Rt) No.428/2015/F&amp;WLD dated 19/09/2015 allowed one time settlement to SFCK as Rs.5.50 crore which was remitted by SFCK. Similarly, PCK was directed to pay an initial installment of Rs.20 crore. But, PCK has remitted Rs.6.34 crore only. In the case of KSEB, the Government vide G.O.(Rt) No.141/2016/F&amp;WLD dated 01/04/2016 directed KSEB to pay Rs.7.83 crore with immediate effect. Regarding amount due from Kerala Forest Development Corporation (KFDC), reconciliation of amount due is in process. Principal Chief Conservator of Forest (FL&amp;R) vide letter Pro(7)-5529/2011 dated, 13/06/2019 had submitted a detailed report to Government with request to settle this long pending issue by adjusting Rs.5,04,79,250/- due to Government from KFDC, from</p>

		Rs.5,42,36,375/- due to KFDC from Government. Accordingly, Government, vide GO(Rt) 4/2020/F&WLD dated, 05/01/2020 has accorded sanction to adjust the amount of Rs.5,04,79,250/- due from KFDC to Government with the amount of Rs.5,42,36,375/- due to KFDC from Government. Government also sanctioned that the amount over and above the dues can be adjusted from lease rent payable from 2018-19. The amounts due from individuals are being recovered through RR steps taken at Division Office levels. In these circumstance, it may be seen that the department has taken all possible measures for the recovery of arrears of revenue. Hence, it is requested that the para may please be got dropped.
1.3	Arrears in assessments	The observation in Para 1.3 does not pertain to Forest Department.
1.4	Evasion of Tax detected by the department	It is submitted that there is no such issues in the department in the audit report.
1.5	Pendency of refund cases.	It is submitted that there is no such issues in the department in the audit report.
1.6	Analysis of stay Granted on arrears of revenue realization. (arrears of revenue pending under stay by court as well as by Government)	Major portion of arrears of revenue is due from Public Sector Undertakings (PSUs). It is submitted that there is no Government stay now for recovery of Arrears of revenue from PSUs. At division office level, concerted efforts are being taken for vacating stay in the event of stay orders imposed by Hon'ble Courts.
1.7.1	Response of the Government / Departments to Audit	This para does not highlight pendency of Inspection Reports due to non-receipt of replies from the Forest Department.

1.7.2	Departmental Audit Committee meetings	This para find no mention of Forest Department. However, Department at regular intervals conduct Audit Committee Meetings in association with higher officials in the office of the AG. Latest Audit Committee meeting was held on 03/09/2019 in the office of Chief Conservator of Forest (Central Circle), Thrissur, Where audit observations in the IRS pending with DFO, Thrissur/ Vazhachal / Chalakkudi / Malayattur, DFO (Tiber sale Division) Perumbavur and ACF (NSC) Kalady were taken up for logical clearance. Meeting was attended by the Higher officials in the office of the AG as well as Forest Department apart from concerned Office Heads.
1.7.3	Non production of records to Audit for scrutiny	There are no such issues pertaining to the Department in the Audit Report.
1.7.4	Response of the Departments to Draft Paragraphs	The Forest Department always responded to the Draft paragraphs in a time bound manner.
1.7.5	Follow up on Audit Reports - Summarized position	This para doesn't pinpoint Forest Department among the departments responsible for non-submission of action taken explanatory notes. Almost all PAC paras and C&AG reports pertain to the Department were replied then and there.
1.8	Status of the Mechanism for dealing with the issues raised in the Audit.	It is submitted that there is no such issue in the Department in the audit report.

1.8.1	Position of Inspection reports	It is submitted that utmost care is taken for timely submission of replies to the inspection reports. The progress is monitored by the Internal Audit wing and also during department level meetings.
1.8.2	Recovery in accepted cases	It is submitted that there is no such issue in the department in the audit report.
1.9	Action taken on recommendation accepted by the department / Government.	It is submitted that there is no such issue in the department in the audit report.
1.10	Audit Planning	This is a statistical para which does not require reply.
1.11	Result of Audit	This is a statistical para which does not require reply.
1.12	Coverage of Audit.	This is a statistical para which does not require reply.



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**C& AG Report (revenue sector) for the year ended 31<sup>st</sup> March 2015**  
**Statement of Action Taken Report**

Para No.	Recommendation	Remarks
1.1	Trend of revenue Receipts	<p>During 2014-15, Government have decided not to renew 418 non-standard bars and closed down 10% of FL1 shops functioning in the State. Hence the licence fees of these licences could not be collected.</p> <p>During 2013-14, KSBC sold 240.87 lakh cases of IMFL and 107.96 lakh cases of beer. But during 2014-15, KSBC could sell only 220.58 lakh cases of IMFL and 95.59 lakh cases of beer. Thus there is negative growth of 20.29 lakh cases IMFL and 12.37 lakh cases of beer. The reduction in the sale of liquor will result in shortage of excise duty. This has resulted shortage in revenue collection.</p>
1.2	Analysis of Revenue	<p>All the Abkari arrears had been recommended for revenue recovery action to realize the arrears from the defaulters. As part of Revenue Recovery Action, Revenue authorities attached the solvency properties/landed property owned by defaulters and their legal heirs as far as legally possible.</p> <p>Against Revenue Recovery Action so many litigations were initiated by the defaulters and most of them are pending before various courts including Hon'ble Supreme Court. Moreover litigators could obtain stay orders against recovery actions. Excise Department took all possible steps for vacating stay orders and speedy disposal of the cases. But pendency of disposal of court cases over years have delayed timely recovery and resulted in accumulation of huge arrears.</p> <p>Interest at the rate of 18% accrued per annum towards principal arrear is</p>

another reason for hike in the total arrear amount. Since the arrears of the year 1952 are still existing and many of the defaulters were demised and their legal heirs are almost insolvent to remit the arrears also stands as a hindrance against recovery.

In the case of defaulters declared as insolvent by the Revenue Department, write off proposal to waive the arrears is submitted by department to Government only after seeking all possible measures to realize the arrears. As per the proposal from Excise department for new amnesty scheme (onetime settlement), the Government announced a new amnesty scheme as per G.O.12/2023/ TAXES dated 22.02.2023, and it's validity has been extended till 30.06.2024.

At present there are 568 cases of abkari defaulters and an amount of Rs.287,71,63,250 as on 31.07.2023 was to be collected from the defaulters. In it only 60 crores is the principal amount and remaining amount is in the form of interest. Out of these cases having an amount of Rs. 69,89,26,220 are pending before various courts and remaining amount of Rs.217,82,36,530 are not covered under judicial interventions. Further, in 258 cases RRC has been returned by the Revenue Authorities. Consequent to the introduction of new amnesty scheme, 43 applications have been received for settlement and out of them, 32 applications have been approved as per conditions of the Amnesty Scheme and 11 applications have been rejected due to failure in satisfying the conditions of the amnesty scheme. Out of 32 applications 20 applicant remitted arrears amount and it resulted in deduction of an amount of Rs. 4,25,69,302 from the total old arrears. Steps are also being taken to collect more arrears through various measures.

1.4	Evasion of tax detected by the department	Evasion of tax cases in Excise Department is Nil.
1.5	Pendency of Refund cases	The closing balance of refund cases for 2013-14 furnished from Excise department was four involving an amount of Rs.1.69 Crore but the opening balance furnished for 2014-15 was six involving an amount of Rs.1.72 Crore. This was a calculation mistake in data. The Government orders for refund of two claims pertaining to 2013-14 were received only on 2014-15. This amount was included in data of 2013-14 by mistake.
1.6	Analysis of Stay Granted	The entire court stay amount 15.68 crores comes under Abkari Old Arrears. All the Abkari arrears had been recommended for revenue recovery action to realize the arrears from the defaulters. Against the Revenue Recovery Action so many litigations were initiated by the defaulters and most of them are pending before various courts including Hon'ble Supreme Court. Moreover litigators could obtain stay orders against recovery actions. Excise Department took all possible steps for vacating stay orders and speedy disposal of the cases.
1.7	Response of the Govt/ Department to Audit	Out of 186 Inspection Reports and 445 Audit Observations ,only 19 Inspection Reports and 30 Audit Observations are pending at present.

வினாக்களுக்காக  
போன்ற வினாக்கள் விடப்பட்டுள்ளன. வினாக்கள் விடப்பட்டுள்ளன.

**STATEMENT OF REMEDIAL MEASURES TAKEN ON THE**  
**REPORT OF THE COMPTROLLER AND AUDITOR**  
**GENERAL OF INDIA FOR THE YEAR ENDED 31.03.2015 (RR)**  
**(PARA 1.1. TO 1.12)**

I		Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/ Paragraph	Trend of revenue receipts
	c)	Paragraph Number	Para.1.1
	d)	Report No./Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2015 (RR)
II	a)	Date of receipt of the Draft Para	GENERAL
	b)	Date of Department Reply	NA
III		Gist of paragraph	<p>The tax and non-tax revenue raised by the Government of Kerala during the year 2014-2015, the state's share of net proceeds of divisible Union taxes and duties assigned to the state and Grant-in aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in Table –1.1</p> <p>The above table indicates that during the year 2014-15, the revenue raised by the State Government (₹42,516.19 crore) was 73 per cent of the total revenue receipts. The balance 27 per cent of the receipts during 2014-15 was from the Government of India. The reason for the variation between revenue receipts for 2014-2015 and 2013-14 was called from various Departments. The details were not furnished by Registration Department (January 2016).</p>
IV	a)	Does the Department agree the fact and figures included	Partially

		in the paragraph	
	b)	If not please indicate the areas of disagreement	<p>In the financial year 2012-13, 2747.55 crores was collected from 12,78,072 documents under the category of stamp duty and fees, but in the financial year 2013-14, only 2353.49 crores were collected under the category of stamp duty and fees from 11,79,064 documents. The main reason is the decrease in the number of documents registered this year(2013-14). Other reasons include limiting the maximum amount of stamp to Rs.1000 per family member after introduction of fair value and fixing the registration fee at Rs.25000/- instead of 2%.</p> <p>In 2014-15 the revenue receipt was increased by 36.74crores compared to 2013-14, despite a decrease in number of documents by 1,25,146.The increase in revenue receipt was due to the enhancement of fair value of land by fifty percent of the existing rates.</p>
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	No Remarks
I	a)	Name of the Department	REGISTRATION
	b)	Subject/ Title of the Review/ Paragraph	Analysis of arrears of revenue
	c)	Paragraph Number	Para.1.2
	d)	Report No/Year	Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2015 (RR)
II	a)	Date of receipt of the Draft Para	GENERAL
	b)	Date of Department Reply	NA
III		Gist of paragraph	The arrears of revenue as on 31

			<p>March 2015 on some principal heads of revenue amounted to ₹10,435.55 crore of which ₹ 1872.12 crore was outstanding for more than five years, as detailed in the Table – 1.4.</p> <p>The arrears of revenue pending for collection in respect of Town Planning Department and Registration Department were shown as Nil(November 2015) despite huge dues pending recovery under revenue recovery proceedings in the case of Registration Department. The exact dues pending recovery with Revenue Department was not made available by Registration Department despite called for (December 2015) from the IG of Registration .</p>
IV	a)	Does the Department agree in the fact and figures included in the paragraph	Partially
	b)	If not please indicate the areas of disagreement	The arrears of revenue pending from Revenue Recovery cases up to 2014-2015 was stamp duty of Rs1,63,534/- and registration fee of Rs. 53,514/-.
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	N.A
VI		Remedial Action taken	During the financial year 2022-23, the outstanding amount of Revenue Recovery cases of stamp duty and registration fee in 1069 cases was Rs.8,59,69,227/-respectively. Action is being taken to recover the amount with Revenue Department.

I	a)	Name of the Department	REGISTRATION
	b	Subject/Title of the Review/ Paragraph	<b>Arrears in assessments</b>
	C)	Paragraph Number	<b>Para 1.3</b>
	d)	Report No/Year	<b>Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2015 (RR)</b>
II	a)	Date of receipt of the Draft Para	<b>GENERAL</b>
	b)	Date of Department Reply	<b>NA</b>
III		Gist of Paragraph	<p>The particulars regarding the arrears in assessment such as cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalization at the end of the year 2014-15 were called for (May 2015) from the Revenue and Disaster Management (R&amp;DM) Department and the Commercial Taxes Department and commercial Taxes Department. The details furnished (between November and December 2015) by the R&amp;DM Department and Commercial Taxes Department were as given in Table – 1.5.</p> <p>Audit found that during the year, clearance of the arrear cases of building tax and plantation tax in R&amp;DM Department were 7,168 and 1,567 respectively which were 67.78 per cent and 35.65 per cent respectively. In the Commercial Taxes Department</p>

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			the clearances in sales tax and agricultural income tax assessments were 1,198 and 1,421 respectively which were 53.03 per cent and 68.32 per cent respectively.
IV	a)	Does the Department agree the fact and figures included in the paragraph	Not applicable to the Registration Department
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	NA
I	a)	Name of the Department	<b>REGISTRATION</b>
	b)	Subject/Title of the Review/ Paragraph	<b>Evasion of tax detected by the department</b>
	c)	Paragraph Number	<b>Para. 1.4</b>
	d)	Report No/Year	<b>Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2015 (RR)</b>
II	a)	Date of Receipt of the Draft Para	<b>GENERAL</b>
	b)	Date of Department Reply	<b>NA</b>
III		Gist of Paragraph	The details of cases of evasion of tax detected by the Department was called for by Audit in May 2015 and reminded in September and October 2015. The details as furnished by the Commercial Taxes, State Excise and Transport Departments and Chief Electrical Inspectorate are given in Table-1.6. The Agriculture, State Lotteries,

		Health Services, Animal Husbandry, Printing and Stationery Departments stated (between May and June 2015) that no case of evasion of tax was detected by them. The Commissioner of Land Revenue stated (November 2015) that the details are being gathered from District Collectors. Final reply has not been received as of January 2016. Details had also not been furnished by Public Works and Forest Departments as of January 2016.	
IV	a)	Does the Department agree the fact and figures included in the paragraph	Not applicable to the Registration Department
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	NA
I	a)	Name of the Department	<b>REGISTRATION</b>
	b)	Subject/Title of the Review/ Paragraph	<b>Pendency of Refund cases</b>
	c)	Paragraph Number	<b>Para. 1.5</b>
	d)	Report No/Year	<b>Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2015 (RR)</b>
II	a)	Date of Receipt of the Draft Para	<b>GENERAL</b>

	b)	Date of Department Reply	NA
III		Gist of Paragraph	The details of refund cases pending at the beginning of the year 2014-15, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2014-15 as reported by the Commercial Taxes and the Excise Department are given in Table - 1.7.
IV	a)	Does the Department agree the fact and figures included in the paragraph	Not applicable to the Registration Department
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	NA
I	a)	Name of the Department	<b>REGISTRATION</b>
	b)	Subject/Title of the Review/Paragraph	<b>Analysis of stay granted</b>
	c)	Paragraph Number	<b>Para. 1.6</b>
	d)	Report No/Year	<b>Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2015 (RR)</b>
II	a)	Date of receipt of the Draft Para	<b>GENERAL</b>
	b)	Date of Department Reply	<b>NA</b>
III		Gist of Paragraph	An analysis of arrears of revenue which were under various stages of collection revealed that the arrears

		<p>pending collection as on 31 March 2015 included collections stayed by various authorities at various stages on some principle heads of revenue as detailed in Table – 1.8.</p> <p>An amount of ₹ 3,339.86 crore was pending under stay, which is 32.20 per cent of the total arrear amount. The Departments had not taken effective action to vacate the stay and to realize the amounts.</p> <p>The arrears of revenue pending under stay in respect of Registration Department, Printing Department, Stationery, Local Fund and Town Planning Department were Nil.</p> <p>The details of arrears pending under stay were not furnished by Power Department (January 2016).</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph
	b)	If not please indicate the areas of disagreement
V	a)	Does the Department agree with the Audit Conclusion
	b)	If not please indicate the areas of disagreement
VI		Remedial Action taken
I	a)	Name of the Department
	b)	Subject/Title of the Review/Paragraph
	c)	Paragraph Number
	d)	Report No/Year

			<b>Year Ended 31.03.2015 (RR)</b>
II	a)	Date of receipt of the Draft para	<b>GENERAL</b>
	b)	Date of Department Replay	<b>NA</b>
III		Gist of Paragraph	<p>The Principal Accountant General (E &amp; RSA), Kerala, conducts periodical inspection of the Government Departments to test check the transactions and verifies the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the Heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the Offices/Government are required to furnish first reply within four weeks from the date of receipt of the Inspection Report. Even if final reply to certain paras in Inspection Report could not be furnished within the prescribed time limit, an interim reply may be furnished indicating the action taken to rectify the defects pointed out by Audit. Serious financial irregularities are reported to the heads of the Departments and the Government. Inspection reports issued upto December 2014 disclosed that 24,691 paragraphs involving ₹ 9,146.67 crore relating to 3,193 IRs were outstanding at the end of June 2015 as mentioned below with the corresponding figures for the</p>

			<p>preceding two years in Table – 1.9.</p> <p><b><u>1.7.1 Details of pending Inspection Reports.</u></b></p> <p>The Department- wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in the Table – 1.10.</p> <p>Audit did not receive even the first replies in case of 443 IRs within four weeks from the date of issue of the IRs from seven heads of offices during 2014-15. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG in the IRs and it also showed the failure to monitor effectively the clearance of pending Audit observations by the Audit Monitoring Committee at Secretary level and Apex Committee at Chief Secretary level.</p> <p>The Government needs to have more effective system for ensuring prompt and appropriate response to Audit observation within the time frame prescribed in the circular issued by the Finance Department by improved monitoring and putting in further checks and balances and incentives and disincentives into this mechanism.</p>
			<p><b><u>1.7.2 Departmental Audit CommitteeMeetings</u></b></p> <p>The Government set up Audit committees to monitor and expedite the progress of settlement of local audit reports and paragraphs in the</p>

		<p>local audit reports. The details of the audit committee meetings held during the year 2014-15 and the paragraphs settled are mentioned in the Table -1.11</p> <p>An amount of ₹8.61 crore was recovered after discussion in these meetings. The progress of settlement of paragraphs pertaining to Revenue Department was negligible compared to the huge pendency of the local audit reports and paragraphs despite holding Departmental Audit Committee Meetings.</p> <p><b><u>1.7.3 Non-production of records to Audit for scrutiny.</u></b></p> <p>The programme of local audit of Tax Revenue /Non-tax Revenue offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the departments to enable them to keep the relevant records ready for audit scrutiny.</p> <p>During the year 2014-15, files relating to KVAT assessments in which the turnover of the assessee was above ₹60 lakhs and KGST assessments in which the tax effect was above ₹ two lakh were called for by Audit for scrutiny in Commercial Taxes Department. However, tax assessment files relating to 80 offices were not made available to Audit. Of these 2,421 files pertained to 20 special circles and works contract offices, where assessments of major dealers are dealt with as given in Appendix I. Circle/division wise analysis</p>
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		<p>showing the names of head of offices for the years 2010-11 to 2014-15 is given in Appendix II. Non-production of large number of transaction records involving substantial revenue not only hinders Audit in discharging the constitutional responsibility but also comes in the way of assuring the State Government about the quality and risk involved in these transactions involving revenue for the State Government. The possibility of fraud or misappropriation or business malfeasance remaining hidden/surpassed and escaping detection during also remains high. The matter was brought to the notice of the Chief Secretary and The Additional Chief Secretary (Finance) to Government by the principle Accountant General in September 2015. The Additional Chief Secretary (Finance) stated (October 2015) that the matter of non production of records by Departments may be taken up as an agenda item in Audit Monitoring Committee (AMC) meeting conducted quarterly by Departments. Directions have been given (October 2015) to all departments that the AMC should monitor and ensure production of necessary records and replies to the audit parties and to take stringent action against the officers for non compliance.</p> <p><b><u>1.7.4 Response of the Departments to the draft paragraphs</u></b></p>
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		<p>The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are sent by the Principal Account General to the Principal Secretaries/Secretaries of the respective Departments drawing their attention to audit findings and requesting their response within six weeks.</p> <p>Eighty seven draft paragraphs including two performance audits were sent to the principal Secretaries of the respective Departments by name between June and October 2015. The principal Secretaries/Secretaries of the Departments furnished replies to all the compliance audit paragraphs and to the Performance Audit Reports on System of Assessment under Kerala Value Added Tax and Levy, Collection and Accounting of Electricity Duty, Surcharge and Inspection Fee and the same has been included in this Report.</p> <p><b><u>1.7.5 Follow up on the Audit Reports-summarised position</u></b></p> <p>The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of</p>
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		<p>tabling the report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the reports were being delayed inordinately. 215 paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Kerala for the years ended on 31 March 2013 to 31 March 2013 were placed before the State Legislative Assembly between 01 March 2010 and 17 July 2014. The action taken explanatory notes from the Departments concerned on 183 paragraphs were received late in respect of each of these Audit Reports. Action taken explanatory notes in respect of 30 paragraphs from four departments (Taxes, Revenue and Disaster Management, Transport and Power) had not been received for the Audit Report for the year ended 31 March 2014 so far (October 2016). It was noticed that six out of nine departments did not submit action taken explanatory notes as of October 2015 in respect of 62 paragraphs (56 individual and six PAs/Review Paragraphs) featured in the C &amp; AG's Audit Reports in respect of Audit Reports from the year 2012. For 56 individual transaction audit paragraphs, compliance was not furnished by four departments. The departments largely responsible for non-submission of action taken explanatory notes were Taxes, Revenue and Disaster Management</p>
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		<p>and Transport.</p> <p>The PAC discussed 146 paragraphs pertaining to the Audit Reports for the years from 2009 to 2013 and its recommendations on 77 paragraphs were incorporated in their Reports brought out during their respective tenure for the period 2008-16. However, ATN have not been received in respect of 138 recommendations of the PAC from the Departments concerned as mentioned in the Table -1.12.</p> <p>The Departments largely responsible for non-submission of ATN were Taxes, Transport, Revenue and Disaster Management and Co-operation.</p> <p>The Non receipt of ATN have been brought to the notice of Chief Secretary to the Government in Apex Committee Meeting held (May and December 2015) and through DO letter by the Principal Accountant General to the Chief Secretary to Government.</p>	
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<p>1.7 – No Remarks to this Department</p> <p>1.7.1 – Inspector General of Registration has given strict instructions to all the subordinate Officers through Circular to initiate</p>

			<p>action on Inspection Reports forwarded by the Account General and to submit replies in time as prescribed. ( Circular No. IGR/8135/2017 – ARA.I. Dated 20.02.2018).</p> <p>1.7.2 – No Remarks 1.7.3 – No Remarks 1.7.4 – No Remarks 1.7.5 – No Remarks</p>
I	a)	Name of the Department	<b>REGISTRATION</b>
	b)	Subject/ Title of the Review/ Paragraph	<b>Status of the mechanism for dealing with the issues raised in audit</b>
	c)	Paragraph Number	<b>Para.1.8</b>
	d)	Report No/Year	<b>Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2015 (RR)</b>
II	a)	Date of receipt of the Draft para	<b>GENERAL</b>
	b)	Date of Department Reply	<b>NA</b>
III		Gist of Paragraph	<p>To analyse the system of addressing the issues highlighted in the Inspection Reports/ Audit Reports by the Departments/ Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last 10 years for one Department is evaluated and included in this Audit Report.</p> <p>The following paragraphs 1.8.1 to 1.8.2 discuss the performance of the Commercial Taxes Department under revenue head 0040-Tax on sales, trade etc. and cases detected in the course of local audit during the last ten years and also the cases</p>

		<p>included in the Audit Reports for the years 2004-05 to 2013-14.</p> <p><b>1.8.1 – Position of Inspection Reports</b></p> <p>The summarised position of the inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2015 are tabulated below in Table – 1.13.</p> <p>The Government arranges Audit Committee Meeting between the Department and the office of the Principal Accountant General to settle the old paragraphs. As wouldbe evident from the above table , against 1,418 outstanding IRs with 12,396 paragraphs as on start of 2004-05, the number of outstanding IRs increased to 1,649 with 19,525 paragraphs at the end of 2013-14. This is indicative of the fact that the response to the local audit reports was poor and the steps taken by the Department to clear the outstanding IRs and paragraphs were inadequate.</p> <p><b>1.8.2 – Recovery in accepted cases</b></p> <p>—</p> <p>The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in Table – 1.14.</p> <p>It is evident from the above table that the progress of recovery in accepted cases was slow throughout during the last ten years. The</p>
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			<p>recovery of accepted cases was to be pursued as arrears recoverable from the parties concerned. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government as of December 2015.</p> <p>The reason for poor recovery even in accepted cases though called for had not been furnished by the Department (January 2016).</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Yes
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	<p>1.8 – No Remarks</p> <p>1.8.1 – Since new Inspection Reports related to a particular office have been issued on an interval of each and every six months, in the place of a closed one, there seems no decrease in the number of reports and outstanding paras. This is the real fact behind the arrear in disposal of outstanding observation.</p> <p>1.8.2 – Once undervaluation action has been initiated by the District Registrar, he has to consider all aspects apart from the contention of the Accountant General. He has to act as a quasi judicial manner to derive a conclusion related to the consideration before arriving a final decision with respect to the prevention of undervaluation rules and also by considering the</p>

			representation of party. So it is a time consuming process.
I	a)	Name of the Department	<b>REGISTRATION</b>
	b)	Subject>Title of the Review/Paragraph	<b>Action taken on the recommendations accepted by the Department/Government</b>
	c)	Paragraph Number	<b>Para. 1.9</b>
	d)	Report No/Year	<b>Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2015 (RR)</b>
II	a)	Date of receipt of the Draft para	<b>GENERAL</b>
	b)	Date of Department Reply	<b>NA</b>
III		Gist of Paragraph	<p>The draft reports of Performance Audit conducted by the Principal Accountant General are forwarded to the Department concerned/ Government for their information with a request to furnish their replies. These reports are also discussed in an Exit Conference and the views of the Department/Government are included while finalizing the Audit Reports.</p> <p>The details of Performance Audit Reports on the Departments of Commercial Taxes, Registration, Excise, Transport and Revenue and Disaster Management featured in the Reports for the last five years along with recommendations and their status are given in Appendix III.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	Partially

	b)	If not please indicate the areas of disagreement	17 <sup>th</sup> Report of the public Accounts Committee (2016-2019) related to the mentioned Performance Audit has already been submitted to the Principal Accountant General x via Letter no E3/261/2021-Taxes dtd 09.05.2023 . The Principal Accountant General has asked for an updated report. Necessary action taken report is under processing, it will be submitted soon. <b>(Copy of the Government Letter enclosed – Annexure – 1)</b>
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	NA
I	a)	Name of the Department	<b>REGISTRATION</b>
	b)	Subject/Title of the Review/Paragraph	<b>Audit planning</b>
	c)	Paragraph Number	<b>Para. 1.10</b>
	d)	Report No/Year	<b>Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2015 (RR)</b>
II	a)	Date of receipt of the Draft para	<b>GENERAL</b>
	b)	Date of Department Reply	<b>NA</b>
III		Gist of Paragraph	The unit offices under various departments were categorized into high, medium and low risk units according to their revenue position, past trends of audit observations, complaints, media reports, non-

			production of records, information regarding malpractice obtained through RTI and misappropriation. The annual audit plan was prepared on the basis of risk analysis which inter-alia included critical issues in Government revenue, tax administration i.e. budget speech, white paper on finances, reports of the Finance Commission (State & Central), recommendation of the Taxation Reforms Committee, statistical analysis of the revenue earning during the past five years, factors of the tax administration, audit coverage and its impact during the past five years etc. During the year 2014-15, there were 849 audit units, of which 451 units were planned and audited. Which is 53.12 per cent of the total audit units.
IV	a)	Does the Department agree the fact and figures included in the paragraph	No Remarks
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	NA
I	a)	Name of the Department	<b>REGISTRATION</b>
	b)	Subject/Title of the Review/Paragraph	<b>Results of audit</b>
	c)	Paragraph Number	<b>Para. 1.11</b>

	d)	Report No/Year	<b>Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2015 (RR)</b>
II	a)	Date of receipt of the Draft para	<b>GENERAL</b>
	b)	Date of Department Reply	<b>NA</b>
III		Gist of Paragraph	<p><b>Position of local audit conducted during the year</b></p> <p>Test check of the records of 443 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles and other Departmental offices conducted during the year 2014-15 showed under-assessment/short levy/loss of revenue aggregating ₹5,148.21 crore in 2,647 cases. During the course of the year, the Departments concerned accepted under-assessment and other deficiencies of ₹ 658.95 crore involved in 230 cases which were pointed out in audit during 2014-15. The Departments collected ₹15.27 crore in 949 cases during 2014-15, pertaining to the audit findings of previous years.</p>
IV	a)	Does the Department agree the fact and figures included in the paragraph	No Remarks
	b)	If not please indicate the areas of disagreement	NA
V	a)	Does the Department agree with the Audit Conclusion	Yes
	b)	If not please indicate the areas of disagreement	NA
VI		Remedial Action taken	NA

32

I		a)	Name of the Department	REGISTRATION
	b)	Subject/Title of the Review/Paragraph		<b>Coverage of this Report</b>
	c)	Paragraph Number		<b>Para. 1.12</b>
	d)	Report No/Year		<b>Report of The Comptroller And Auditor General of India for the Year Ended 31.03.2015 (RR)</b>
II	a)	Date of receipt of the Draft para		<b>GENERAL</b>
	b)	Date of Department Reply		<b>NA</b>
III		Gist of paragraph		The Reports contains 31paragraphs involving financial effect of ₹ 4,506.23 crore . The Department/Government have accepted audit observations involving ₹ 710.29 crore out of which ₹ 6.94 crore had been recovered. These are discussed in succeeding chapters II to VII.
IV	a)	Does the Department agree the fact and figures included in the paragraph		No Remarks
	b)	If not please indicate the areas of disagreement		NA
V	a)	Does the Department agree with the Audit Conclusion		Yes
	b)	If not please indicate the areas of disagreement		NA
VI		Remedial Action taken		NA



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## GOVERNMENT OF KERALA

Taxes (E) Department

No.E3/261/2022/Taxes

09-05-2023, Thiruvananthapuram

From  
Secretary to Government

To  
The Principal Accountant General,  
Kerala, Thiruvananthapuram

Sir,

Sub: Taxes department – Registration – Public Accounts Committee (2016-2019) -17th report - [C & AG report for the year ended 31.03.2011 (rr)]. ATR on vetted paras - Forwarding of- reg.

Ref: 1. Your letter No. Report(RS)/PAC/17/2016  
2. Letter No18194/PAC B1/2018/L.A, dated 28.04.2023  
from Secretary Kerala Legislative Secretariat .

I am to invite your attention to the letters referred above and to forward herewith 40 copies of the duly authenticated Statement of Action Taken Report on vetted paras (para no. 7,11,15,16,17, 21,22,23,27,28,32,33,40,41,42, 43,46,47,48) in the 17<sup>th</sup> report of Public Accounts Committee (2016-19) for onward transmission to the Secretary, Legislature Secretariat. Copy of the file (Current file -165 pages and Note file -9 pages) is also enclosed herewith for reference.

Yours Faithfully,



PRAMOD M V  
JOINT SECRETARY  
For Secretary to Government.

*34*  
രജിസ്ട്രേഷൻ വകുപ്പ്  
രജിസ്ട്രേഷൻ ഇൻസ്റ്റിറ്റുട്ട് ജനറലിംഗ്സ് കാര്യാലയം.

പൊതുക്രിമാനം

**IGR/8135/2017-ARA.**

**20/02/2018**

**വിഷയം :** രജിസ്ട്രേഷൻ വകുപ്പ് - ലോകൽ ആധിപ്പ് റിപ്പോർട്ടുകൾ സമയബന്ധിതമായി തീർപ്പാക്കന്നതിനായുള്ള നിർദ്ദേശങ്ങൾ - സംബന്ധിച്ച് : സൂചന : ബഹു. നികത്തി വകുപ്പ് സെക്രട്ടറിയുടെ സാന്നിധ്യത്തിൽ രജിസ്ട്രേഷൻ ഇൻസ്റ്റിറ്റുട്ട് ജനറലിംഗ്സ് അദ്യുക്തിയിൽ 13.10.2017ന് സെക്രട്ടറിയറ്റ് ഡൽഭാർ ഹാളിൽ വച്ചു നടന്ന ഉന്നത ഉദ്ഘാസമത്തെ യോഗത്തിലോ നടപടിക്കിപ്പ് .

അക്കൗണ്ടർ ജനറൽ രജിസ്ട്രേഷൻ വകുപ്പിലെ വിവിധ ആഫീസുകളിൽ ആധിപ്പ് നടത്തി മുന്നോട്ട് വയ്ക്കുന്ന റിമാർക്കകൾക്ക് വ്യക്തവും വിശദമായ വിശദീകരണം സമയബന്ധിതമായി സമർപ്പിക്കന്നതിലും, ടി റിപ്പോർട്ടുകളിൽ സ്വീകരിക്കുന്ന നടപടികൾ തീർപ്പാക്കന്നതിലും വകുപ്പിലെ ഉദ്ഘാസമർ നിരന്തരം വീഴ്ച വരുത്തുന്നതായി ശ്രദ്ധയിൽപ്പെട്ടു. ആയതിനാൽ ഇത്തരത്തിലുള്ള കാലതാമസം ഒഴിവാക്കുന്നതിലും നടപടികൾ സമയബന്ധിതമായി തീർപ്പാക്കുന്നതിനുമായി ചുവടെ ചേർത്തിട്ടുള്ള നിർദ്ദേശങ്ങൾ പുറപ്പെട്ടവിക്കുന്നു.

**1. ആധിപ്പ് നോട്ട് :**

ആധിപ്പ് ടി. ആഫീസ് പരിശോധന നടത്തുന്നും കണ്ടത്തന്ന റിമാർക്കകൾക്ക് പരിശോധനാവേളയിൽ അപ്പപ്പോൾ തന്നെ ടി ആഫീസിലെ മേധാവിയിൽ നിന്നും വിശദീകരണം ആവശ്യപ്പെടാറുള്ളതാണ്. രജിസ്ട്രേഷൻ പത്രികൾ രേഖപ്പെടുത്തുന്നതിൽ വന്നിട്ടുള്ള നിസ്താരമായ വീഴ്ചകൾക്കോ, ആധാരത്തിൽ റവന്യൂ നഷ്ടം ഉണ്ടായിട്ടുണ്ട് എന്ന് തെറ്റായി കണക്കാക്കി എടുത്തിട്ടുള്ള റിമാർക്കകൾക്കോ ആയിരിക്കാം വിശദീകരണം ആവശ്യപ്പെടുന്നത്. എന്നാൽ അത്തരം സന്ദർഭങ്ങളിൽ 'വിശദീകരണം പിന്നീടു സമർപ്പിച്ചുകൊള്ളാം' എന്ന നിയത്തരവാദപരമായ മറുപടിയാണ് സമർപ്പിക്കാറുള്ളതെന്നുകാണുന്നു. തന്റെ കഴിവില്ലാത്ത റിമാർക്കകൾ സി. & എ.ജി. റിപ്പോർട്ടിൽ വരെ ഉൾപ്പെടുവാൻ ഇടയായി കാണുന്നു. റിമാർക്കമായി ബന്ധപ്പെട്ട രേഖകൾ വ്യക്തമായി പരിശോധിച്ച് അപ്രകാരമുള്ള റവന്യൂ നഷ്ടം ഉണ്ടായിട്ടുണ്ട് എന്ന് ആധിപ്പ് ടീമിനെ തത്സമയം തന്നെ ബോധിപ്പിച്ച് ആധിപ്പ് റിപ്പോർട്ടിൽ ഉൾപ്പെടുത്താതിരിക്കവാൻ ശ്രമിക്കുന്നതിനു പകരം പ്രസ്തുത റിമാർക്ക് തന്നെ സംബന്ധിക്കുന്നതല്ല എന്നതിനാൽ നിസ്താരത്തിൽ പാലിക്കുന്ന സബ് രജിസ്ട്രേഷനായാൽ നിലപാട് അംഗീകരിക്കാവുന്നതല്ല.

ആയതിനാൽ ആഫീസ് പരിശോധന വേദ്യിൽ ആഡിറ്റ് ടി. കണ്ടത്തന റിമാർക്കുളിൽ, ആഫീസ് മേധാവിയുടെ അഭിപ്രായം തസമയം ആരാത്തുകൊണ്ട് നല്ലന ആഡിറ്റ് നോട്ടകൾക്ക് ആഫീസിൽ പ്രയോഗിച്ചുള്ള രേഖകൾ വ്യക്തമായി പരിശോധിച്ച് തന്നെ വിശദീകരണം സമർപ്പിക്കുവാൻ വകുപ്പിലെ ഉദ്യോഗസ്ഥർ മേഖല ശുശ്രീക്കേണ്ടതാക്കുന്നു.

## 2. ഐയർവാലു അപാകത റവന്യൂ ഉദ്യോഗസ്ഥർക്ക് റിപ്പോർട്ട് ചെയ്യുന്നത് :

സർവീസ് നമ്പറുകളിൽ ഫെയർവാലു ശരിയായ ക്ലാസിഫീക്കേഷൻ നിർണ്ണയിക്കപ്പെട്ടിട്ടില്ലാത്തതിനാൽ തുടർന്നും ഉണ്ടായേക്കാവുന റവന്യൂ നഷ്ടം തടയുക എന്ന ലക്ഷ്യത്തോടെ ടി അപാകത റവന്യൂ ഉദ്യോഗസ്ഥരുടെ ശ്രദ്ധയിൽകൊണ്ടുവന്ന് പരിഹരിക്കുവാൻ അക്കൗണ്ടന്റെ ജനറൽ നിരവധി റിപ്പോർട്ടുകളിലും നിർദ്ദേശിച്ച കണ്ടവയ്ക്കും. ആയതിന് ബന്ധപ്പെട്ട സബ് രജിസ്ട്രാർ 'RDO യും റിപ്പോർട്ടുചെയ്യിട്ടുണ്ട്' എന്നാളും വിവരമാണ് ജില്ലാ രജിസ്ട്രാർ പലപ്പോഴും അക്കൗണ്ടന്റെ ജനറലിനു വിശദീകരണമായി സമർപ്പിച്ച കാണാറുള്ളത്. അതായത് ടി അപാകത പരിഹരിക്കപ്പെട്ട എന്ന് റിപ്പോർട്ടു ചെയ്യുവത്തന്നും വളരെ അപൂർവ്വമായി മാത്രമേ കാണാനാളും. റവന്യൂ ഉദ്യോഗസ്ഥർക്ക് റിപ്പോർട്ടു ചെയ്യുന്നതിലെ പോരായ്യരാകാം ഇത്തരത്തിലുള്ള വീഴ്യുടെ പ്രധാന കാരണമെന്നുകാണുന്നു. 27.03.2010 തീയതിയിലെ G.O.(Rt).77/2010/T.D. നമ്പർ സർക്കാർ ഉത്തരവു പ്രകാരം ഫെയർവാലു നിർണ്ണയത്തിലെ അപാകത ആദ്യം കണ്ടത്തുവാൻ കഴിയുന്ന ഉദ്യോഗസ്ഥർ സബ് രജിസ്ട്രാർ ആണ് എന്നതിനാൽ, പ്രസ്തുത അപാകത സബ് രജിസ്ട്രാർക്കും അപ്പിൽ ആപത്തിൽ ജില്ലാ കളക്ടർ മുൻപാകെ ബോധിപ്പിക്കുവാൻ അനുമതി നല്കി ഉത്തരവായിത്തും. അക്കൗണ്ടന്റെ ജനറലിന്റെ റിമാർക്കുണ്ട് അടിസ്ഥാനത്തിൽ ബോധ്യപ്പെടുന്ന പ്രസ്തുത ഫെയർവാലു ക്ലാസിഫീക്കേഷൻ അപാകതകളും അപ്പിൽ ആപത്തിൽ തന്നെ ജില്ലാ കളക്ടർക്ക് സമർപ്പിക്കാമായിരുന്നാവെകിലും അപ്രകാരമല്ലാതെ കത്ത് ആപത്തിലാണ് സബ് രജിസ്ട്രാർ കളക്ടർക്ക് റിപ്പോർട്ടു ചെയ്യുള്ളതുവയ്ക്കുന്നത്.

ആയതിനാൽ അക്കൗണ്ടന്റെ ജനറലിന്റെ ആഡിറ്റ് റിപ്പോർട്ടുകളിൽ നിലവിൽ തീർപ്പാക്കാതെ അവശേഷിക്കുന്ന ഫെയർവാലു അപാകത റവന്യൂ ഉദ്യോഗസ്ഥർക്ക് റിപ്പോർട്ടു ചെയ്യുണ്ടതായുള്ള റൂനാഞ്ചിൽ ടി അപാകത സബ് രജിസ്ട്രാർമാർ അപ്പിൽ ആപത്തിൽ (Form B യിൽ) ജില്ലാ കളക്ടർക്ക് ഒരിക്കൽ തടി സമർപ്പിച്ച് വകർഷ് അതു ജില്ലാ രജിസ്ട്രാർ(ജനറൽ) മാർക്ക് അയച്ചുകൊണ്ടതാക്കുന്നു.

### 3. അംഗീകാരം നേരിട്ട് നടപടി : സുവോ- മോട്ടോ നടപടി :

അക്കൗണ്ടർ ജനറൽ നിലവിൽ അംഗീകാരം നേരിട്ട് നടപടി നും ഇന്ത്യൻ സംബന്ധിച്ചതിൽ ചുണ്ടിക്കാണിക്കുന്ന റിമാർക്കകൾ ഒക്ടോബർ 1947 തന്നെ സർവ്വേ നമ്പറിൽ / ശരിയായ ക്ലാസിഫിക്കേഷൻ നും നിർണ്ണയിക്കാത്തതു സംബന്ധിച്ചുള്ളതാണ്. ആയതിന് വകുപ്പിലെ ഉദ്യോഗസ്ഥർ നേരിട്ട് ഉത്തരവാദികൾ അല്ല എന്നിൽനാഡി, അക്കൗണ്ടർ ജനറൽ മുന്നോട്ടുവയ്ക്കുന്ന ഇത്തരം റിമാർക്കകളിൽ പ്രതിപാദിക്കുന്ന പ്രകാരമുള്ള റവന്യൂ നഷ്ടം ഉണ്ടായിട്ടുണ്ടോ എന്ന യാമാസമയം പരിശോധിക്കുന്നതിലും തണ്ടലം കണ്ണെത്തപ്പുടുന്ന നഷ്ടം സമയബന്ധിതമായി തിരിച്ചപിടിക്കുന്നതിലും ജില്ലാ രജിസ്ട്രാർ വേണ്ടതു ശുഭ കാണിക്കുന്നില്ല എന്നാളുള്ളത് നിലവിലെ കട്ടിപ്പറ്റിക്കിപ്പോര്ക്കുന്നതിൽ നിന്നും വ്യക്തമായിട്ടുള്ളതാക്കാനും, നിലവിൽ സി & എ.എ. റിപ്പോർട്ടുകളിൽ ഉൾപ്പെട്ടിട്ടുള്ള ആധാരങ്ങളിലെ സുവോ-മോട്ടോ അംഗീകാരം നേരിട്ടിയിൽ വരെ കാലതാമസം വരുത്തി കാണുന്നു. ഇത്തരം കാലതാമസത്തിനാളുള്ള വിശദീകരണം ആവശ്യപ്പെടുന്നോൾ ടി ആധാരങ്ങളിലെ യു.വി. നടപടികൾ ജില്ലാ രജിസ്ട്രാർ(ആധിക്രാം) ആണ് നടത്തിപ്പോരുത്തുനേരുന്നു, കത്ത് ടി ജില്ലാ രജിസ്ട്രാർ(ആധിക്രാം) ന് കൈമാറിയിട്ടുണ്ട് എന്നാളുള്ള വിശദീകരണമാണ് ജില്ലാ രജിസ്ട്രാർ(ജനറൽ) സമർപ്പിച്ചുകാണാറുള്ളത്.

ആയതിനാൽ അക്കൗണ്ടർ ജനറലിന്റെ റിമാർക്കിന്റെ അടിസ്ഥാനത്തിൽ സുവോ-മോട്ടോ സീക്രിക്കറ്റ് ആധാരങ്ങളിൽ മേഖലയിൽ ജില്ലാ രജിസ്ട്രാർ (ജനറൽ) നേരിട്ട് തന്നെ ലോകൽ ആധിക്രാം കൈകാര്യം ചെയ്യുന്ന ക്ലാർക്കിന്റെ സേവനം പ്രയോജനപ്പെടുത്തി സമയബന്ധിതമായി നടപടികൾ പുർത്തീകരിക്കേണ്ടതാക്കാനും.

### 4. അന്തിമ ഉത്തരവു പുറപ്പെടുവിക്കുന്നതു സംബന്ധിച്ച് :

സർവ്വേ നമ്പറുകളിൽ ശരിയായ ക്ലാസിഫിക്കേഷൻ വില നിർണ്ണയിക്കാത്തതുമുലുള്ള റവന്യൂ നഷ്ടം അക്കൗണ്ടർ ജനറൽ കണക്കാക്കുന്നത് മെയർവാലു രജിസ്ട്രാർ അടയ്ക്കു വരുന്ന സർവ്വേ നമ്പറുകളിൽ പ്രസ്തുത ക്ലാസിഫിക്കേഷൻ നിർണ്ണയിച്ചിട്ടുള്ള മുല്യം കണക്കാക്കിയാണ്. ആയതിനാൽ ഇത്തരത്തിൽ അക്കൗണ്ടർ ജനറൽ മുന്നോട്ടുവയ്ക്കുന്ന റവന്യൂ നഷ്ടം എല്ലായിപ്പോഴും കുതുമാകണമെന്നില്ല. എന്നിൽനാഡി, ടി ആധാരങ്ങളിൽ ജില്ലാ രജിസ്ട്രാർ കേരളാ സ്റ്റാറ്റ്, 1959, വകുപ്പ് 45B(3) പ്രകാരമുള്ള സുവോ- മോട്ടോ നടപടിയിലൂടെ കുറവു തുക തിട്ടപ്പെടുത്തി പുറപ്പെടുവിക്കുന്ന അന്തിമ ഉത്തരവ് വ്യക്തത ഉള്ളതാ തായിരിക്കേണ്ടതാക്കാനും, ജില്ലാ രജിസ്ട്രാർ തിട്ടപ്പെടുത്തുന്ന തുക അക്കൗണ്ടർ ജനറൽ റവന്യൂ നഷ്ടമായി ചുണ്ടിക്കാണിക്കുന്ന തുകയിൽ നിന്നും വളരെ കുറവായി കാണുന്നോൾ ആയതിനാളുള്ള വിശദീകരണം അക്കൗണ്ടർ ജനറൽ

ആവശ്യപ്പെട്ടവോൾ പലപ്പോഴും കക്ഷിയെ നേരിട്ട് കേട്ടതിൽ നിന്നും ബോധ്യപ്പെട്ടിട്ടുള്ളത് എന്നുള്ള വിശദികരണമാണ് ജില്ലാ രജിസ്ട്രാർ സമർപ്പിച്ചകാണാറുള്ളത്. ജില്ലാ രജിസ്ട്രാർ പുറപ്പെട്ടവിക്കന അന്തിമ ഉത്തരവിൽ മേൽ അപ്പീൽ പഠിഗണിക്കുന്നത് ജില്ലാ കോടതിയാണ് എന്നുള്ളതിനാൽ പ്രസ്തുത അന്തിമ ഉത്തരവ് കാര്യകാരണസഹിത(Speaking Orders) മായിരിക്കേണ്ടതാണെന്ന് 13.05.2014 ലെ ഫിൽ.3. 24022/2013 നമ്പർ സർക്കലറിലൂടെ ഈ ആഫീസ് നിർദ്ദേശിച്ചിരുന്നതാകനു.

The Kerala Stamp(Prevention of undervaluation of Instruments) Rules, 1968, പ്രകാരമുള്ള നടപടിയിൽ Rule 7 പ്രകാരം ജില്ലാ രജിസ്ട്രാർ പുറപ്പെട്ടവിക്കന അന്തിമ ഉത്തരവിൽ പ്രത്യേക മാതൃകകളുണ്ടാണ്. തന്നെ നിർദ്ദേശിച്ചിട്ടില്ല. ആയതിനാൽ മുൻകൂട്ടി സെറ്റ് ചെയ്തിട്ടുള്ള മോറത്തിൽ പേര്, ആധാര നമ്പർ തടങ്ങി ആവശ്യവോൾ വിവരങ്ങൾ മാത്രം എഴുതിചേര്ത്ത് ഉത്തരവു പുറപ്പെട്ടവിക്കനത് ചെയ്യാക്കി തുടർന്ന് സംബന്ധിച്ച് വ്യക്തവും വിശദവും ആയ ഉത്തരവുകൾ പുറപ്പെട്ടവിക്കേണ്ടതാകനു.

### 5. റിപ്പോർട്ട് കളിൽ പതിവായി കണ്ടവരുന്ന റിമാർക്കേഷൻ :

ആധിസ്തേൻ ഒഴിവുകൾ രജിസ്ട്രാർ കുത്യമായി പരിപാലിക്കണമെന്ന് ഈ ആഫീസ് നിരവധി സർക്കലറുകളിലൂടെ നിർദ്ദേശം നൽകിയിരുന്നവെക്കിലും ടി വീഴ്ച ഇപ്പോഴും ആവർത്തിക്കുന്നതായി അക്കൗണ്ടന്റെ ജനറലിന്റെ റിമാർക്കേഷൻ നിന്നും മനസ്സിലാക്കുന്നു. ആയതിനാൽ പതിവുകൾ കുത്യമായി ചേര്ത്ത് ടി രജിസ്ട്രാർ കർശനമായി പരിപാലിക്കുവാൻ ഒരിക്കൽ തുടർന്ന് നിർദ്ദേശിക്കുന്നു. പരിശോധനാവേദ്യിൽ ജില്ലാ രജിസ്ട്രാർ ടി രജിസ്ട്രാർ കുത്യമായും പരിശോധിച്ചിരിക്കേണ്ടതാകനു

ഹർണ്ണിച്ചർ/കമ്പ്യൂട്ടർ സ്ക്രോക് രജിസ്ട്രാകൾ കുത്യമായി പരിപാലിക്കുന്നതിൽ വീഴ്ച വരുത്തുന്നത് പതിവായി കണ്ടവരുന്ന റിമാർക്കേഷൻ. ആയതിനാൽ കേരളാ പിന്നാൻപ്പുൽ കോഡ് വാല്യം 1 ആർട്ടിക്കൾ 158 പ്രതിപാദിക്കുന്ന പ്രകാരം ടി രജിസ്ട്രാർ പരിപാലിച്ച് ആഫീസ് മേധാവി സാക്ഷ്യപ്പെടുത്തി സുക്ഷിക്കേണ്ടതും ആർട്ടിൾ 159 അനശാസിക്കുന്ന പ്രകാരം വേണ്ടുന്ന പരിശോധനകൾ നടത്തേണ്ടതുമാകനു.

ഹാജർ പുസ്തകവും അന്വണ്ണയ രജിസ്ട്രാകളും അലക്ഷ്യമായി പരിപാലിക്കുന്നതിനെ സംബന്ധിച്ച് അക്കൗണ്ടന്റെ ജനറൽ അടുത്തകാലങ്ങളിലെ റിപ്പോർട്ട് കളിൽ റിമാർക്കേച്ചുകളാണെന്നു. ഹാജർ പുസ്തകത്തിൽ ഒപ്പ് രേഖപ്പെടുത്താതെയും കുത്യമായി അവധി രേഖപ്പെടുത്താതെയും കോളങ്ങൾ ചെയ്തിട്ടുണ്ടും. എന്നുള്ളതാണ് പ്രധാനമായും കണ്ടവരുന്നത്. ആയതിനാൽ ഹാജർ രജിസ്ട്രാർ കുത്യമായി പരിപാലിക്കുവാൻ ആഫീസ് മേധാവി മേലിൽ അതീവ ശ്രദ്ധ പുലർത്തേണ്ടതാകനു. ജില്ലാ രജിസ്ട്രാർ ആഫീസ് പരിശോധന നടത്തുന്ന

വേളയിൽ ഹാജർ പുസ്തകം/ ലീവ് കണക്ക്/ കാഷ്യത്ത് ലീവ് രജിസ്ട്രർ എന്നിവ കൂടുതായി പരിശോധിക്കേണ്ടതാക്കും.

മേൽ നിർദ്ദേശങ്ങൾ കർശനമായി പാലിച്ച് ഓഡിറ്റ് റിപ്പോർട്ടുകൾ സമയബന്ധിതമായി തീർപ്പാക്കവാൻ നിർദ്ദേശിക്കുന്നു.

Signature Not Verified

Digitally signed by C A LATHA

Date: 2018.02.20 12:27:42 IST

Reason: Approved

## REGISTRATION INSPECTOR GENERAL

### പകർപ്പ് :

1. രജിസ്ട്രേഷൻ ജോയിന്റ് ഇൻസ്റ്റിറ്റുട്ടർ ജനറൽ
2. എല്ലാ ഡി.എ.ജി. മാർക്ക്.
3. ജീലും രജിസ്ട്രാർ (ജനറൽ & ആറിറ്റ്) മാർക്ക്  
( ജീലും രജിസ്ട്രാർ ജനറൽ തങ്ങളുടെ പരിധിയിലെ സഖ്യ രജിസ്ട്രാർമാർക്ക് പകർപ്പ് നൽകുക.)
4. ബ്രാഞ്ച് ആഫീസർമാർ/സെക്രട്ടറീസ് സുപ്രണടമാർ/ ഫയൽ/ സ്റ്റാക്ക് ഫയൽ.

**REPLY TO THE REFERENCE ON THE AUDIT REPORT OF THE C&AG OF INDIA ON**  
**THE REVENUE SECTOR FOR THE YEAR ENDED ON 31.03.2015**

Audit Para No.	Audit Para	Reply to the Audit Para
1.1.1	<p>The expenditure on prize winning tickets of lotteries conducted by the Government was Rs.2185.74/- crore.</p>	<p>It is referred in para 1.1.1 of the C&amp;AG report that expenditure on prize winning tickets of lotteries conducted by the Government was Rs.2185.74/- crore. As per the Departmental data the actual expenditure on prize distribution was Rs.2186.07/- crore.</p> <p>The profitability of a new scheme will always depends on an attractive prize structure, hence the prize structure should be more attractive both in terms of prize money and number of prizes. The nature of work of the State Lotteries Department is quite different from other Government departments. It is commercial in nature. Prize structure should always be attractive. Otherwise could not attract customers and may fail achieve the annual target. Hence, the expenditure on prize cannot be reduced below a certain level, since it will adversely affect the sales and consequently cause a decline in revenue to the State exchequer. Whenever a downward trend in sale is noticed, the prize structure will revised to make it attractive and profitable. At the same time the Department is always cautious in not creating an unjustifiable hike in prize expenditure. Hence the expenditure.</p>
1.1.3	<p>From gross receipts (budget estimates) of Rs.4235/- crore, target fixed was Rs.4235.00/- crore. As per the expenditure prize winning tickets of departmental data the actual receipts and lotteries (budget estimates) of expenditure during 2014-15 was Rs.5445.85/- crore. Rs.1360/- crore has deducted, but Rs.4277.58/- crore respectively. Of the other expenditure like commission to total expenditure, the expenditure towards agents (budget estimates Rs.1200/- crore), establishment expenses (expenditure met from budget estimate was Rs.256/- crore have not been deducted.</p> <p>From gross receipts of Rs.5444.88/- crore, expenditure of Rs.2185.74/- crore on prize winning tickets has been deducted, but other expenditure met from budget estimate was like commission to agents discount expenditure was (Rs.1792.67/- crore, establishment expenses, etc were Rs.298.85/- crore (Rs.280.22/- crore), etc. (establishment expenses, expenses on sale of</p>	<p>During the financial year 2014-15 the revenue distribution of prize was Rs.2186.07/- crore. And the expenditure towards agent's commission and discount were 1792.67/- crore (agent's prize expenditure met from sales proceeds was Rs.236.02/- crore and agent's prize expenditure like commission to agents discount expenditure was 1552.14/- crore). Establishment expenses, etc were 298.85/- crore (Rs.280.22/- crore), etc. (establishment expenses, expenses on sale of</p>

40  
have not been deducted.

lottery tickets and publicity charges). The net yield during 2014-15 was Rs.1168.26/- crore. Hence the expenditure.

Increased revenue receipt during this period is due to the hike in lottery sale because of the revised attractive prize structure, increase in the face value of tickets and increase of agency registration fees during that period.

1.7.1 The pendency of the IR's and audit observations in the department. Pendency details are attached as annexure.

M  
MANOJ.K  
PEN:102842  
Joint Secretary to Government  
Taxes Department  
Govt.Secretariat,Thiruvananthapuram  
Ph:0471 2518484

ANNEXURE

DETAILED REPORT OF PENDANCY POSITION OF LOCAL AUDIT REPORT BY THE ACCOUNTANT  
GENERAL (AUDIT) ON THE ACCOUNTS OF THE STATE LOTTERIES DEPARTMENT AS ON 28.02.2023

Sl.No.	Office	Report number, year and period of audit	Pending audit paras	Abstract of audit para	Remarks
1.	Directorate of State Lotteries, Thiruvananthapuram	10-1002/08-09 (2008-2009)	Part II A para I (1 para)	1. Locking up of government revenue	A satisfactory final reply has not yet been received from the District Collectors of Pathanamthitta, Kasaragod and Kollam. The Director of State Lotteries had issued necessary direction to District Lottery officers concerned to collect the report from District Collectors immediately. The final reply will be furnished to the AG as soon as the reply from the District Collectors is received.
2.	Directorate of State Lotteries, Trivandrum	12-718/08-09/1145(2008-2009)	Part II A para I (1 para)	1. Failure of the weekly lotteries-Loss	Efforts are being made to clear the audit para. The final reply will be furnished to the AG at the earliest.
3.	Directorate of State Lotteries, Trivandrum	10-1215/21-22/05(2018-2021)	PART II B PARA I, II, III, IV, V, VI, (i, ii, iii) (6 para)	I. Lack of advertisement policy for Kerala lottery. II. Avoidable Expenditure incurred towards Printing Charges.	Comprehensive Efforts are being made to clear the audit para. The final reply will be furnished to the AG at the earliest.

other than media without prior sanction of the government.

V. Avoidable expenditure of 14.69 lakhs being rent of idled new office building at idukki.

VI(i) Verification of stock registers.  
ii) Non Conducting of Fuel Consumption Test of the Vehicles Maintained in this office.  
iii) Arrears in internal audit.

4.	Directorate of State Lotteries, Trivandrum	10-1187/15-16/22	Part II A para I, II Part II B para II	<p>1) Service Tax paid over and above the rates communicated by I&amp;PRD. The final reply will be furnished to the AG at the earliest.</p> <p>II) Pending TDS demand.</p> <p>(3 para)</p> <p>III) Violation of contract agreement by KBPS -C-apt -follow up action pending.</p>	<p>Efforts are being made to clear the audit para. The final reply will be furnished to the AG at the earliest.</p> <p>Avoidable payment of interest on building rent.</p>	<p>Utilization of TR-5 receipts instead of Action is being taken to implement the system generated receipts.</p> <p>PART II B PARA I (Expenditure) (1 para)</p>	<p>Utilization of TR-5 receipts instead of Action is being taken to implement the system generated receipts.</p> <p>PART II B PARA I (Expenditure) (1 para)</p>	<p>Misappropriation of sales proceeds of lottery.</p> <p>Part II B para I (1 para)</p>	<p>The Vigilance &amp; Anti-Corruption Bureau, Kollam Unit has completed its investigation and submitted its final report before the Inquiry Commission and Special Judge Court,</p>
5.	Regional Joint Directorate, Ernakulam	10-1217/20-21/10	PART II A PARA II (1 para)						
6.	District Lottery office, Trivandrum	10-1217/20-21/10	PART II B PARA I (Expenditure) (1 para)						
7.	District Lottery Office, Kollam	10-1172/13-14/57	Part II B para I (1 para)						

Thiruvananthapuram on 31.03.2018. The case is under consideration in the Honorable court.

8.	District Lottery Office, Palakkad	10-1223/22-23/44	Part II B para I. (a, b) II (2 para)	I) Internal control mechanism. a) internal audit b) reconciliation II) improper maintenance of stock register of assets.	The final reply has been sent to the Accountant General.
9.	District Lottery Office, Pathanamthitta	10-1191/15-16/31	Part II B PARA II (1) (1 para)	Utilization of TR-5 receipts instead of Action is being taken to implement system generated TR-5 receipt instead of manual TR5 receipt	
10.	District Lottery Office, Pathanamthitta	10-1221/22-23/34	Part II B PARA V (1 para)	Non recovery of NPS subscription from pay revision arrears.	The Director of State lotteries has given direction to the District Lottery Officer, Pathanamthitta to finalize the remaining audit paragraph and sent the final report immediately
11.	District Lottery Office, Kottayam	111/111/11-3/2017-18/454, 455, 601, 602 (2017-2018)	PART I (1 para)	Irregular drawal of cash handling allowances.	The final reply has been sent to the Accountant General.
12.	District Lottery Office, Kottayam	10-1226/22-23/58 (2018-2022)	PART II b PARA I, II, III, IV (4 para)	I. Inadequacy in safe remittance of cash received. II. Non maintenance of statutory registers III. Idling computers, printers and other accessories IV. Non recovery of NPS subscription from pay revision arrears.	The District Lottery Officer, Kottayam was directed to furnish the final reply immediately on the finalization of the remaining audit paras.
13.	District Lottery Office, Thrissur	10-1192/15-16/35 (2013-2015)	Part II B PARA II (1 para)	Utilization of TR-5 receipts instead of Action is being taken to implement system generated TR-5 receipt instead of manual TR5 receipt.	
14.	District Lottery Office, Thrissur	10-1221/22-23/90 (2018-2022)	PART II B PARA II,	I. Inadequate infrastructure facilities in the D.L.O. Thrissur and Sub Office Officer, Thrissur to finalize the remaining audit	Strict direction has given to the District Lottery

		III. (a, b). PART III PARA I (3 para)	Iringalakkuda.	paras and submit the final report immediately.
15.	District Lottery Office, Ernakulam	10-1197/16-17/68 (2014-2016)	Part II B para IV (1 para)	II. (a) Non reconciliation of departmental remittance into treasury. b) Delay in conducting internal audit in Sub Lottery Office Iringalakkuda
16.	District Lottery Office, Ernakulam	10-1218/21-22/14 (2016-2021)	PART II B PARA I(b) (1 para)	Expenditure IV) (i) Non disposal of serviceable items of stock.
17.	District Lottery Office, Idukki	10-1198/16-17/69 (2014-2016)	Part II B PARA I (1), 2(II) (2 para)	Expenditure I) Inadequate security arrangements in The District Lottery Officer, Ernakulam was strictly directed to furnish the final reply at the earliest.
18.	Directorate of State Lotteries, Trivandrum	10/1201/17-18/18 (2016-2017)	Part II B PARA I, II, VI (3 para)	Expenditure II) Discrepancy regarding the position to the District Lottery Officer, Idukki to finalize in the number of lottery tickets the remaining audit paragraph and sent the final generated through LIMS.
				The final reply has been sent to the Accountant of Un General
				The Director of State Lotteries has given direction to the District Lottery Officer, Idukki to finalize in the number of lottery tickets the remaining audit paragraph and sent the final generated through LIMS.
				Expenditure II) Irregular drawal of funds.
				I) Release Of Publicity Orders in Action is under process and the final reply will be Excess of the Permissible Limits furnished soon.
				II) Awarding advertisement order overlooking tender formalities and without prior sanction of the government.
				VI) Non refund of tax remitted in advance for lotteries that are cancelled before conducting the draw

				Rs.5.5 Crore.
19.	Directorate of State Lotteries, Trivandrum	10-1210/18-19/77 (2017-2018)	Part II B PARA III, (1 para)	<u>Expenditure</u> Non settlement of TDS recovery
20.	District Lottery Office, Kollam	10-1211/18-19/104 (2014-2018)	Part-II B para 1 (1 para)	Misappropriation of money detected during internal audit.
21.	District Lottery Office, Kozhikkodu	10-1229/22-23/92 (2017-2022)	PART II b PARA I, II, III, IV, V (5 para)	The final reply will be given to the AG immediately after receiving the reply from the sections concerned.
22.	District Lottery Office, Kannur	10-1227/22-23/69 (2017-2022)	PART II B PARA I, II, III, IV (4 para)	The final reply will be given to the AG immediately after receiving the reply from the sections concerned.

20.	District Lottery Office, Kollam	10-1211/18-19/104 (2014-2018)	Part-II B para 1 (1 para)	Misappropriation of money detected during internal audit. The Vigilance & Anti-Corruption Bureau, Kollam Unit has completed its investigation and submitted its final report before the Inquiry Commission and Special Judge Court, Thiruvananthapuram on 31.03.2018. The case is under consideration in the Honorable Court.
21.	District Lottery Office, Kozhikkodu	10-1229/22-23/92 (2017-2022)	PART II b PARA I, II, III, IV, V (5 para)	The District Lottery Officer, Kozhikkodu is strictly directed to furnish the final reply at the earliest to finalize the remaining audit paragraph by the director of State lotteries.
22.	District Lottery Office, Kannur	10-1227/22-23/69 (2017-2022)	PART II B PARA I, II, III, IV (4 para)	The final reply will be given to the AG immediately after receiving the reply from the sections concerned.

1. Non recovery of NPS subscription from pay revision arrears.
- II. Adherence to the circulars issued and sent the final report immediately by the director of State lotteries.
- III. Non deduction of income tax on rent paid

- IV. Non Reconciliation Of Departmental Remittance Into Treasury.

V. Non Disposal of E-waste Items.

20.	District Lottery Office, Kollam	10-1211/18-19/104 (2014-2018)	Part-II B para 1 (1 para)	The final reply will be given to the AG immediately after receiving the reply from the sections concerned.
21.	District Lottery Office, Kozhikkodu	10-1229/22-23/92 (2017-2022)	PART II b PARA I, II, III, IV (5 para)	The final reply will be given to the AG immediately after receiving the reply from the sections concerned.
22.	District Lottery Office, Kannur	10-1227/22-23/69 (2017-2022)	PART II B PARA I, II, III, IV (4 para)	The final reply will be given to the AG immediately after receiving the reply from the sections concerned.

- III. Adherence to the circulars issued by the director of state lotteries.

23.	District Lottery Office, Wayanadu	10-1219/21-22/18 (2016-2021)	PART II B PARA I, III, IV (2, 3, 4, 6) (3 para)	I. Irregular granting of increment. III. Lack of Adequate facility in the General office. IV(2, 3, 4, 6)-Contigent bill ratification.
24.	Directorate of State Lotteries, Trivandrum	10-1225/22-23/48 (2021-2022)	PART II A PARA I, PART II B PARA I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII. (13 para)	<p>The final reply has been sent to the Accountant allottments/demand of lottery tickets and Consequent Unsold/shortage of tickets.</p> <p>The final reply will be given to the AG immediately after receiving the reply from the on printing of lottery tickets awarded sections concerned to c-apt Trivandrum</p> <p><b>PART II A PARA</b></p> <p>I. Non insisting of security measures immediately after receiving the reply from the on printing of lottery tickets awarded sections concerned to c-apt Trivandrum</p> <p><b>PART II B PARA</b></p> <p>I. Irregular payment of Daily allowance to staff engaged in draw of lottery in Trivandrum.</p> <p>II. Irregular payment of daily allowance to staff deployed in staff in vattiyoorkkavu.</p> <p>III. Non deduction of TDS ON Honorarium paid to judges.</p> <p>IV. Irregular drawal of Leave travel concession claim.</p> <p>V. Discrepancies noticed in the procurement of stationery items, etc.</p>

VI. Short levy of fee due to enhancement of non tax revenue.

VII. Non inviting of Tender, quotation for the supply of stationery items/snacks etc.

VIII. Lack of comprehensive advertisement policy for kerala lottery.

IX. Release of publicity orders in excess of the admissible limits without obtaining sanction from government.

X. Irregular deduction of TDS under section 192 of IT Act.

XI. Non conducting of fuel consumption test of the vehicles maintained in this office.

XII. Availability of records and registers for audit.

## 2.1 Tax Administration

Para No.	Gist of the Audit Para	Remarks
2.1	<p><b>Tax Administration</b></p> <p>Kerala General Sales Tax (KGST)/ Kerala Value Added Tax (KVAT) laws and rule made thereunder are administered at the Government level by the Principal Secretary, Taxes. The Commercial Taxes Commissioner is the head of the Commercial Taxes Department who is assisted by Joint Commissioners, Deputy Commissioners, Assistant Commissioners and Commercial Tax Officers. The assessment, levy and collection of tax are done by Assistant Commissioners and Commercial Tax Officers.</p> <p>KGST is leviable on sale of Ganja and opium, foreign liquor and certain petroleum products. VAT is leviable on the intrastate sale of remaining commodities and Central Sales Tax (CST) on interstate sales.</p>	<p>This para discusses erstwhile organisational set up and tax administration set up of the Department and hence no remarks.</p> <p>As per GO(Ms) 55/2022/Taxes dated 02.08.022, Department has been re-organised into three major verticals. The new three major verticals are Taxpayer Services, Audit and Intelligence. In the changed scenario, the Commissioner is the head of the State GST Department who is assisted by Special Commissioner, Additional Commissioners, Joint Commissioners, Deputy Commissioners, Assistant Commissioners / State Tax Officers and Assistant State Tax Officers. The Joint Commissioner, Deputy Commissioner, Assistant Commissioner / State Tax Officer and Assistant State Tax Officers are the proper officers for specific functions assigned to them for the assessees falling within their pecuniary jurisdiction</p>

Para No. Gist of the case	Present position
<p><b>2.4.7.1 Recommendation No.I –</b>  <b>Department may take measures to bring all dealers into the tax net by utilising the inputs available in KVATIS and with other agencies.</b></p> <p><b>Failure to bring dealers under tax net and consequent escapement of turnover from assessment.</b></p> <p>The CTD had failed to collect the data available with other Departments like Economic Statistics, State Planning Board, previous period.</p>	<p>Department had taken sincere efforts to bring maximum number of dealers under the tax net. To widen the tax base, Department has introduced a scheme called 'one time incentive to new registrant scheme'. This scheme was operational from 01/04/2013 to 31/08/2014. The dealers were voluntarily required to apply for registration</p>

outside the State through binding on such person, however such dealer various check posts and shall not be entitled to any benefits accruing from found that 140 non registered such registration.

dealers transported goods amounting to Rs. 156.82 crore outside the State

**• Loss of revenue due to non registration of online traders**

Audit found that the Department was not using various inputs available in KVATIS to monitor the trade activities of unregistered dealers. Audit found that the increase in the number of dealers registered was not commensurate with the number of dealers as reported by other agencies discussed above.

In order to enforce the said provisions Department had issued instructions to the Intelligence Wing of the Department to collect from all sources lists of persons carrying on business without taking registration and to conduct surveys and to initiate action to bring such dealers under tax net.

Moreover in case of unregistered dealers effecting inter state transactions security deposit were collected at CTCPs and offence recorded at check posts. The OR files were subsequently forwarded to jurisdictional enquiry offices. After completing the enquiry proceedings the security deposit so collected were either converted to penalty or refund based on enquiry findings. Later the connected file will be handed over to the assessing authority concerned for further assessment. The assessing authority then call for the books of accounts and will take action as per Rules. Hence the Department followed strict and compulsory procedures against unscrupulous transportations.

Moreover all the check posts functioning in the State were abolished with the introduction of GST and the meaning and scope of interstate transaction took a different aspect. In GST scenario also, registration drive based on street survey and data received from outside agencies / Departments are being frequently done and maximum effort are being taken to bring persons liable to be registered under tax net.

Details of dealers permitted to transport goods

outside the State without taking registration listed in Appendix IV contains 140 cases which includes name of the dealer, value of goods transported etc., but does not include any other details for to identify the address of the dealer. Even though, the list lacks sufficient details, the same has been verified and found that some of the dealers were registered under KVAT Act and it is not practical to ascertain the status of each case with available details. Also, registration procedures and threshold limit for registration under GST Act is unlike VAT.

The status of registration of dealers from 2014-15 to 2017-18 is furnished as below:

**DEALER REGISTRATION**

Year	Registered Dealers
2014-15	220339
2015-16	245015
2016-17	262592
2017-18	269905

- In order to bring online traders under tax net, section 54A was inserted as per KFA 2015 w.e.f 01.04.2015. Section 54A is reproduced below:

***“Entities engaged in electronic commerce to furnish certain details.- All companies and entities maintaining an electronic commerce website shall file monthly, the details of goods sold through such sites in such form as may be prescribed, which are transported into or outside the State as a result of such sale. For this purpose they shall take registration under this Act, in such manner as may be prescribed.”***

Para No.	Gist of the case	Present position
2.4.7.5	<p><b>Recommendation 5: Department may prepare a manual detailing all aspects of assessment to ensure uniformity in the system of assessment. Further, it may be ensured that necessary reports are generated automatically from the KVATIS.</b></p> <p><b>Lack of a Department manual to formulate a system in the assessment of tax under KVAT Act, 2003</b></p> <p>A Department manual is essential for regulating and streamlining its functions and activities which has offices functioning throughout the State and has deployed its manpower in all offices. Though there was a manual in the erstwhile KGST regime where the assessment was totally different from VAT, the Department failed to formulate a manual to be followed in VAT assessments even after ten years of introduction of the new system. In the absence of a manual, the following discrepancies were noticed.</p>	<p>At present registers are being maintained properly and more over all pre-GST arrear details are available in the pre-GST arrear module of the GST back – end.</p> <p>The Department is following the policy of ease of doing business and as a remarkable initiative had switched over to the e-platform from 2009 onwards. This paperless initiative had rendered some registers obsolete as it is easily available in electronic form. But the important registers such as DCB Register, Collection Register, OR/CR/RC Registers, Stay Register, Assessment Register, Appellate Order Register, Revenue Recovery Register etc were maintained in physical form.</p>

affected both transparency in selection of files 08.01.2023 of the Department, and effectiveness in collection of tax.

**Lack of clarity in the assignment of duty to men in position**

After the introduction of the KVATIS, the works attended by the supporting staff in the assessment circles were considerably reduced due to automation of functions. Thus, the Department could have utilised their service effectively in areas such as scrutiny of returns of presumptive tax dealers/returns with less turnover reported, conduct street survey etc., towards ensuring better tax collection regime.

Audit observed that though the Department issued directions specifying the duties and responsibilities of the Assessing Officers and clerks, the duties mentioned for clerks in the circular were not relevant after the introduction of KVATIS system. The directions were silent on duties and responsibilities of other important categories like Inspector, Junior Superintendent etc.

powers and functions of the proper officers including ASTOs are assigned.

As per Circular No.6/2023 dated 08.01.2023, instructions for pecuniary Limit for the issuance of show cause notices and passing of orders is also issued.

## ACTION TAKEN NOTIFICATION &amp; AG'S REPORTS

	(a) Department	COMMERCIAL TAXES
	(b) Subject/Title of the Review	Internal Audit
	(c) Paragraph	2.2
	(d) Report No. and Year	C&AG report for the year ended 31-3-2015
I	Date of receipt of the Draft Report in the Department	
II	(a) Date of Department's Rept	
III	Text of Paragraph, Review	The Internal Audit Wing (IAW) in the Commercial Taxes Department commenced functioning from 1 June 2009. The wing headed by the Deputy Commissioner is assisted by two Assistant Commissioners and five Commercial Tax Officers. During 2014-15, the wing planned 356 units but could audit only 35 units. Potential losses and collection fall cases are compulsorily checked by the wing. Out of an overall outstanding of 4,696 paras only 448 paras (9.74 per cent) were cleared. The reason for low clearance of observations made by IAW, though called for (April 2015) has not been furnished by the CCT (December 2015). This indicates the poor response of the CT to the observations of the IAW and in enforcing clearance of the paras by addressing the shortcomings/deficiencies pointed out by the wing.
IV	(a) Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA

✓	(a)	Does the Department agree with the Audit conclusions?	No
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	The CCT gives utmost priority to audit assessments and internal audit. Necessary steps have been taken to strengthen the functioning of that wing.

## REMEDIAL ACTION TAKEN

(a) Improvement in system The Internal Audit Wing is functioning under the direct and procedures, including control of the Commissioner, KGST Department since 01/06/2009. Headquarters of Internal Audit wing is at Thiruvananthapuram and it has 3 regional offices at Ernakulam, Thrissur and Kozhikode.

The work of the Internal Audit Wing is of the nature of supportive supervision. The objectives of the audit wing is to verify and ensure that the assessment systems of the sub offices is functioning correctly paving way to augment collection of revenue. This Wing verifies the assessment files which includes assessed as well as non assessed files. The audit team verify whether assessment and connected registers are maintained properly and follow up action also taken in revenue recovery cases.

The Audit Officers after completing the audit prepares the audit report which is given to the concerned office during that month itself. The assessing authority completes assessment based on the directions in the audit report and creates additional demand. After rectifying the defects the assessing officer submits the rectification report of the audit inspection along with supporting enclosures.

After the audit conducted by C&AG in 2015, conscious efforts have been taken to increase the efficiency of this wing. Previously the wing consisted of one Deputy Commissioner, 2 Assistant Commissioners and 5 State Tax Officers. On 20/12/2016, Audit Assessment Wing was merged with the Internal Audit Wing and thereby the strength of the wing was increased. At present the Internal Audit Wing consists of One Deputy Commissioner, 6 Assistant Commissioners and 16 State Tax Officers. After the strengthening of the wing the work turnout has increased substantially. Moreover the percentage of coverage of outstanding paras increased to 32% during the year 2017-18. Out of an overall outstanding of 12381 paras 4198 paras were cleared by the Internal Audit Wing as shown below:-

The details of coverage of Audit Paras by the Internal Audit wing for the year 2009-10 to 2017-18

Year	No. of inspection	Audit paras	Amount (in lakh)	Audit paras disposed	Amount (in lakh)
2009-10	12	417	452.04	130	20.34
2010-11	46	919	330.53	361	13.22
2011-12	32	445	2738.2	210	136.91
2012-13	56	369	1488.9	88	68.48
2013-14	60	1333	1675.2	75	78.73
2014-15	85	1976	3492.00	448	528.54
2015-16	56	1331	16903.00	306	515.87
2016-17	58	1678	123047.03	939	56646.96
2017-18	116	3913	602069.33	1641	573303.52
<b>Total</b>	<b>521</b>	<b>12381</b>	<b>752196.20</b>	<b>4198</b>	<b>631312.57</b>

- (b) Recovery of overpayment pointed out by audit
- (c) Recovery of under assessment, short levy or other dues
- (d) Modification in the schemes and programmes including financing pattern
- (e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.

  
 R. Raja Gopal  
 Additional Secretary  
 Taxes Deptt

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

	(a) Department	COMMERCIAL TAXES
	(b) Subject/ title of the Review Paragraph	Time limit for completion of assessment reopened not prescribed in the statute
	(c) Paragraph No.	2.4.7.4
	(d) Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a) Date of receipt of the Draft Para / Review in the Department	
	(b) Date of Department's Reply	
III	Gist of Paragraph/Review	As per Sections 22, 24 and 25 of KVAT Act, 2003, it is mandatory to issue notice to the dealer for being heard about the discrepancies noticed in the return or accounts before proceeding for assessment to the best of assessing authority's judgment. However, there was no provision in the statute fixing a time limit to complete the assessment if no reply is received within the time limit of one to two weeks prescribed in the notice or if the reply received from the dealer is not satisfactory.
		In the absence of such a provision in the statute, Audit found that in eight cases out of 120 files test checked in three assessment circles, assessments were not completed even after five years though pre-assessment notices to reopen the self assessments had been issued.
IV	(a) Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a) Does the Department agree with the Audit conclusions?	Partly agreed
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	Even though there was no provision in the statute for fixing a time limit to complete the assessment after notice, the assessments in all the cases are completed by the assessing authority without getting barred by time limitation provided in the Act.

## REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.

Palakkad

Sherin Builders /2011-12

Based on the audit objection the assessment has been completed on 13.10.2015 and created additional demand Rs. 12,99349/- . The assessee filed appeal before the Deputy Commissioner (Appeal) and has remanded the assessment order for fresh disposal. Accordingly the assessment has been completed on 02.03.2018 and created additional demand Rs. 6.48 lakhs.

Kannur- 2 cases

M/s.Zewar Commercial Construction (P) Ltd :

32121229803/12-13

The assessment has been completed by creating an additional demand of Rs. 658311/- . The dealer paid 20% of the demand and filed an appeal before the Deputy Commissioner (Appeals)II, Kozhikode. The Deputy Commissioner has modified the assessment as per order KVATA 4716 dtd. 29.12.17.

M/s. Sadananda Realtors : 32121288628/12-13

Assessment for the year 2012-13 has been completed vide order No. 32121288628/12-13 dated 20.06.2015 and created an additional demand of Rs. 2,13,073/- . The assessee filed appeal before the Deputy Commissioner (Appeals) and the appellate authority has modified the assessment as per KVATA No. 1539/15 dtd. 17.01.2017.

- (b) Recovery of overpayment pointed out by audit
- (c) Recovery of under assessment, short levy or other dues
- (d) Modification in the schemes and programmes including financing pattern
- (e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.

  
 R. Raja Gopal  
 Additional Secretary  
 Taxes Dept

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a) Department	COMMERCIAL TAXES
	(b) Subject/Title of the Review Paragraph	Lack of a Department Manual to formulate a system in the assessment of tax under KVAT Act Non maintenance of registers
	(c) Paragraph No.	2.4.7.5(1)
	(d) Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a) Date of receipt of the Draft Para / Review in the Department	
	(b) Date of Department's Reply	
	Gist of Paragraph/Review	Audit found that the field offices were not maintaining important registers such as DCB register, Scrutiny register, Audit visit register, Notice issued register, Assessment register, Appeals pending register etc. in connection with the assessment / collection of tax.  In the absence of these registers, the details of important information in an office such as period up to which the returns were scrutinised in the cases of each assessees, details of permission sought/ received for conducting Audit visit, details of self assessments reopened etc., were not available. The non maintenance of registers affected both transparency in selection of files and effectiveness in collection of tax.
IV	(a) Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a) Does the Department agree with the Audit conclusions?	Yes
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

## REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.

The Department is following the policy of ease of doing business and as a remarkable initiative had switched over to the e-platform from 2009 onwards. This paperless initiative had rendered some registers obsolete as it is easily available in electronic form. But the important registers such as DCB Register, Collection Register, OR/CR/RC Registers, Stay Register, Assessment Register, Appellate Order Register, Revenue Recovery Register etc are still maintained in physical form. In the GST regime all these items of works are handled by the respective back end modules and hence no manual registers are required to be maintained. These back end modules will automatically take care of these important registers and reports.

(b) Recovery of overpayment pointed out by audit

(c) Recovery of under assessment, short levy or other dues

(d) Modification in the schemes and programmes including financing pattern

(e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.



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Additional Secretary  
Taxes Dept

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a) Department	COMMERCIAL TAXES
	(b) Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment
	(c) Paragraph No.	Accounted Sales escaping Assessment 2.4.7.6 (1)
II	(d) Report No. and Year	C & AG report for the year ended 31-3-2015
	(a) Date of receipt of the Draft Para / Review in the Department	
	(b) Date of Department's Reply	
III	Gist of Paragraph/ Review	Section 42(1) of KVAT Act, 2003 stipulates that every dealer whose total turnover in a year exceeds rupees sixty lakh shall get his accounts audited annually by a Chartered Accountant or Cost Accountant and shall submit a copy of the audited statement of accounts and certificate in Form 13 & 13A. Section 24(1)(a) of the Act, stipulates rejection of the return, if there is discrepancy between the return filed and audited accounts and to complete the assessment to the "best of judgment". As per section 42(2) of the Act, the dealer is liable to pay any additional tax with reference to the audited figures, interest thereon under Section 31(5) and penal interest at twice the rate of interest accrued.

Audit noticed that in 14 assessment circles, 15 dealers failed to report the accounted sales whereas 14 dealers failed to report the turnover accounted as 'other receipts'.

The 'other receipts' were warranty claim, AMC receipt, trade discount, subsidy or other receipts to make up the loss sustained etc. which were liable for tax. The total turnover escaped from assessment of tax worked out to Rs. 323.22 crore and the resultant short levy of tax including interest under Section 31(5), penal interest and penalty under Section 67 amounted to Rs.105.30 crore (Appendix V).

Audit observed that amongst the defaulters, M/s Hindustan Unilever Limited of Special Circle Mattancherry was the biggest defaulter with tax effect of Rs. 41.61 crore. The nature of business dealt with by other dealers are given below:

- Four in Fast Moving Consumer Goods with tax effect of Rs. 51.09 crore.
- Four in Supermarket with tax effect of Rs. 7.50 crore.
- Three in batteries with tax effect of Rs. 4.50 crore.
- Eighteen in multiple commodities with tax effect of Rs. 142.21 crore.

Thus, failure of assessing officers to adhere to the provisions of the Act and rules resulted in non-detection of irregularities.

IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Partly agreed
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	Based on the audit objection, books of accounts were verified and no turnover variation detected as pointed in audit in two case, In one case turnover variation detected and assessment has been completed.
V	(a)	Does the Department agree with the Audit conclusions?	Partly agreed
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	Based on the audit objection, books of accounts were verified and no turnover variation detected as pointed in audit in two cases, In one case turnover variation detected and assessment has been completed.

## REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.

1. Godrej & Boyce Mig. Co. Ltd  
32070248212/2013-14

Based on the audit objection, the assessment has been completed vide Order No.32070248212/13-14 dated 19.05.2017 and created an additional demand of Rs. 12,12,893.23/- (Tax) and Rs.4,55,948/- (interest). The demand is under RR.

20. Kunnath Paper Mills Pvt. Ltd  
32090221945/2013-14

Based on the audit objection a notice under section 25(1) of KVAT Act was issued to the assessee. In the reply to the notice, the assessee stated that the variation is on account of amalgamation of another company M/s.K.T.Francis Paper & Boards Pvt Ltd. The assessee explained that the turnover of Rs.19,82,16,103/- is related to the company M/s. K.T Francis Paper and Boards (P) Ltd which had been amalgamated to M/s. Kunnath Paper Mills Pvt. Ltd pursuant to the order of the Honourable High Court of Kerala in Petition No.27/2013 C/w MCA 4&5/2013.

The total sales turnover for the year 2013-14 as per the financial statement of both the companies is reconciled as shown below.

Total turnover as per annual return	:	Rs. 15,34,57,464.00
Less: Excise duty and Cess	:	Rs. 65,50,765.00
Less: Interstate sale of Machinery	:	Rs. 4,55,000.00
<b>Total</b>	:	<b>Rs.14,64,51,699.00</b>
Add: Sales turnover of K.T Francis Paper & Boards (Excluding Excise Duty)	:	Rs. 15,03,86,822.00
Add: Interstate stock transfer (Out) of K.T Francis Paper & Boards	:	Rs. 5,48,35,046.00
<b>Total</b>	:	<b>Rs. 35,16,73,567.00</b>

On verification of the documents produced by the assessee, it was found that the company M/s. K.T Francis Papers and Boards (P) Ltd is amalgamated to the M/s. Kunnath Paper Mills Pvt. Ltd during 2013-14 pursuant to the order of the Honourable High Court of Kerala and K.T Francis Paper and Boards (P) Ltd had also disclosed total sales turnover Rs. 15,97,26,801 and interstate stock transfer out for Rs. 5,48,35,046/- in the annual return and remitted tax. As such there is no variation in the sales turnover as pointed out in the audit para.

**21. Paragon Steels (p) Ltd**  
**32090250802/2013-14**

Based on the audit objection Notice under section 25(1) of the KVAT Act issued to the assessee. In this regard the variation is on account of inclusion of tax (VAT & CST) collected in the sales turnover in the audit report. A reconciliation statement had been attached to the audit statement, by the auditor as under.

	Total sales as per the annual return	Rs. 97,49,49,109.00
1)	Add KVAT collected	Rs. 4,85,06,694.00
2)	Add CST Collected	Rs. 97,831.00
3)	Add Debit Note	Rs. 7,57,418.00
	Total	Rs. 1,02,43,11,052.00
	Less fixed asset sales value	Rs. 14,43,413.00
	Turnover as per 13, 13A	Rs. 1,02,28,67,639.00

This has been verified and found correct. Hence there is no variation as alleged in the Audit Para.

- (b) Recovery of overpayment pointed out by audit
- (c) Recovery of under assessment, short levy or other dues
- (d) Modification in the schemes and programmes including financing pattern
- (e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.

*R. Raja Gopal*  
 Additional Secretary  
 Taxes Dept

*66*  
ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a) Department	COMMERCIAL TAXES
	(b) Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment
	(c) Paragraph No.	Failure to report turnover accounted as interstate stock transfer out
	(d) Report No. and Year	2.4.7.6 (2) C & AG report for the year ended 31-3-2015
II	(a) Date of receipt of the Draft Para / Review in the Department	
	(b) Date of Department's Reply	
III	Gist of Paragraph/Review	The movement of goods from one State to another State that occasioned otherwise than by way of sale is treated as local sale and tax shall be levied under section 6 of KVAT Act, if the transfer is not supported by statutory Forms.
		Audit found that eight out of 17 dealers scrutinised in five assessment circles failed to report in their annual return, the transactions accounted as interstate stock transfer out. The dealers did not report the transaction and also failed to submit statutory forms to claim exemption. Though statutory declarations were not filed, the assessing officer did not levy tax on the turnover of goods treating it as a local sale. Non-reporting of transactions worth Rs. 384.79 crore resulted in short levy of tax including interest and penalty of Rs. 140.53 crore.
IV	(a) Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a) Does the Department agree with the Audit conclusions?	Yes
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

## REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.

Ernakulam

M/s. Parle Biscuits (P) Ltd  
(TIN 32070333284/13-14)

The audit had pointed out that the assessee had not declared consignment stock transfer out to the tune of Rs. 12,06,20,443/- in their Form 10 return for the year 2013-14, even though they had accounted the same in Form 13A. The dealer failed to revise the return and also failed to produce Form F. Omission to do so has resulted in short-levy of tax and interest amounting to Rs. 6,40,10,123/-

The matter has been examined in detail, with reference to the accounts of the assessee. The assessee had conceded Rs. 12,06,20,442.71 as consignment stock transfer out vide column No. M6 of Part II, Manufacturing & Trading results in form No. 13A filed.

It may kindly be noticed that the assessee had a manufacturing unit at Kolenchery. They had inter Depot Stock Transfer of finished goods amounting to Rs. 12,06,20,442.71 to their Depots at Kollam, Cochin, & Calicut during the year 2013-14, and local stock transfer out of Rs. 3,44,31,976.17 between Kollam, Calicut and Cochin Depots.

The assessee had returned Rs. 15,50,52,418.88 as local stock transfer out in form No. 10 filed which is the total of stock transfer of finished goods from the manufacturing unit at Kolenchery and the other transfers are between units as below.

Local Stock transfer from manufacturing unit	: Rs. 12,06,20,442.71
Other stock transfer:	<u>Rs. 3,44,31,976.17</u>
Total	: Rs. 15,50,52,418.88

Local stock transfer out of manufactured goods Rs. 12,06,20,442.71 has been included in the Manufacturing and Trading Account for 2013-14 and other intra state stock transfer for Rs. 3,44,31,976.17 has been accounted in the Trading Account for 2013-14.

The omission pointed out in audit amounting to Rs. 12,06,20,443/-, is 'not consignment stock transfer out' and is only 'local stock transfer' from manufacturing unit, which has been included in form 10 returns filed. There is no loss of revenue in this case. The assessee had filed documents to prove turnover of 'interstate stock transfer out'. Hence the audit objection is not sustainable.

- b) Recovery of overpayment pointed out by audit
- c) Recovery of under assessment, short levy or other dues
- d) Modification in the schemes and programmes including financing pattern
- e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings or sample check by audit



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Additional Secretary  
Taxes Dept

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment  Turnover exempted without mentioning the nature of exemption
	(c)	Paragraph No.	2.4.7.6 (3)
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>As per Rule 10 of the KVAT Rules, 2005, the allowable deductions from local sale of taxable goods are (1) sale of goods to units in Special Economic Zone (SEZ) (2) sale to his agent or principal (3) sale of medicines purchased on invoices in Form 8H.</p> <p>Audit found that in case of 25 out of 42 dealers whose returns scrutinised in nine assessment circles, the assessees availed exemption of turnover of Rs. 671.45 crore from their local sales turnover without mentioning the nature of exemption. Since no exemption is allowable from the local sales of a dealer under the Act other than those mentioned above, the exemption availed was not in order. However, the assessing authority accepted the returns without assessing the irregular exemptions. This resulted in short levy of tax including interest under Section 31(5) and penalty under Section 67 of Rs. 234.89 crore.</p> <p>Audit observed that amongst the defaulters, M/s Indian Oil Corporation of Special Circle II Emakulam was the biggest defaulter with tax effect of Rs. 148.64 crore. The nature of business dealt by these dealers are indicated below:</p>

	<p>• Four in Automobiles with tax effect of Rs. 38.79 crore.</p> <p>• Three in Hill produce with tax effect of Rs. 15.02 crore.</p> <p>• Three in Fast Moving Consumer Goods with tax effect of Rs. 11.69 crore.</p> <p>• Fifteen in multiple commodities with tax effect of Rs. 169.39 crore.</p>
	<p>Audit noticed that M/s. Indian Oil Corporation, M/s Concorde Motors India Ltd of Special Circle II Ernakulam, M/s Hindustan Unilever Limited of Special Circle Mattancherry and National Handloom Development Corporation Ltd. of CTO, II Circle, Kannur repeated the default for three years.</p>
IV (a)	Does the Department agree with the facts and figures included in the paragraph?
	Partly agreed
IV (b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
	The exemption are allowed to the extent which is proved with valid documentary evidences as per rule and the turnover in which exemption claimed but not proved is subject to assessment.
V (a)	Does the Department agree with the Audit conclusions?
	Partly agreed
V (b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary
	The exemption are allowed to the extent which is proved with valid documentary evidences as per rule and the turnover in which exemption claimed but not proved is subject to assessment.

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	<p><b>2. G.H. Associates</b> 32071594972/2011-12</p>
		<p>Based on the audit objection the assessing authority issued a notice u/s 25(1) to assessee. On verification of the books of accounts and supporting statutory forms produced by the assessee, it was found that the turnover in question consists of sale in the course of import (High sea sales) for Rs. 2,15,85,199/-, Sales in transit (E1) for Rs. 5,73,684.72/- and sales turnover to SEZ for Rs. 24,383.40 totalling to Rs. 2,21,83,267.12. The whole turnover in question is supported by the relevant statutory forms and has proved the exempted turnover.</p>
		<p><b>21. V-Star Creations Pvt Ltd</b> 32070438652/2013-14</p>
		<p>Based on the audit objection the assessee has claimed an exemption of Rs. 19,19,599/- for the year 2013-14 in the annual return, the assessment records were verified and it was found that the dealer has claimed an exemption of Rs. 8,85,58,379/- including the amount pointed out by the audit. Hence the assessment for the year 2013-14 has been re-opened and completed vide order No. 32070438652/2013-14 dtd. 22.05.2017 creating an additional demand of Rs. 83,14,276/-. The demand is under RR.</p>
		<p><b>23. Francis Trading Company</b> 32050859984/2011-12</p>
		<p>The exempted turnover of Rs. 65129368/- conceded by the assessee in the annual return relates to sales in the course of export. The assessee has produced entire H Forms and corresponding bills of lading as proof of exemption claimed.</p>
		<p><b>31. Ruchi World Wide Ltd.</b> 32090600992/2011-12</p>
		<p>Based on the audit objection, notice U/s 25(1) of the KVAT Act issued to the assessee. The assessee filed reply stating that exemption claimed for Rs. 32,77,92,863.39/- was related to the export sales</p>

	(direct export for 3,25,33,131.39 and deemed export for Rs. 29,52,59,732/-) and produced documents to prove export sales. The assessing authority verified the documents produced by the assessee and found genuine. Therefore the assessment was completed vide order No. 32090600992/11-12 dated 20.01.2013 allowing exemption claimed by the assessee.
b) Recovery of overpayment pointed out by audit	
c) Recovery of under assessment, short levy or other dues	
d) Modification in the schemes and programmes including financing pattern	
e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

*RKG*  
R. Raja Gopal  
Additional Secretary  
Taxes Dept

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a) Department	COMMERCIAL TAXES
	(b) Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment
	(c) Paragraph No.	Turnover exempted without furnishing the statutory documents 2.4.7.6 (5)
	(d) Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a) Date of receipt of the Draft Para / Review in the Department	
	(b) Date of Department's Reply	
III	Gist of Paragraph/Review	<p>As per Rule 10 of the KVAT Rules, the dealer is entitled to deduct the turnover 2005 if the turnover is supported by Form 43, Form 25F, Form 8H invoices, Form E1 or the documents supporting high sea sales as the case may be.</p> <p>Audit observed that 22 out of 37 dealers in 12 assessment circles exempted a turnover of Rs. 1,007.71 crore by claiming that the goods were sold (1) to a unit situated in SEZ, (2) through auction (3) as tax previously suffered on its MRP. However, no statutory documents such as Form 43, Form 25F or Form 8H, were produced to prove their claims. Audit found that the assessing officers were not completing the assessments, even in the absence of such statutory declarations. In the absence of such statutory forms, the exemption claimed was not in order resulting in short levy of tax including interest u/s 31(5) and penalty u/s 67 amounting to Rs. 151.38 crore</p> <p>Audit observed that amongst the defaulters, M/s. JMJ Trader of Special Circle, Kottayam was the biggest defaulter with tax</p>

effect of Rs. 51.37 crore. The nature of business dealt by these dealers are as follows:

- Seven in Medicine with tax effect of Rs. 40.79 crore.
- Five in Tea auction with tax effect of Rs. 50.70 crore.
- Six were sellers to Special Economic Zone with tax effect of Rs. 58.55 crore.
- Four were sub contractors with tax effect of Rs. 1.34 crore.

IV	(a) Does the Department agree with the facts and figures included in the paragraph?	Partly agreed
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	The exemption are allowed to the extent which is proved with valid documentary evidences as per rule and the turnover in which exemption claimed but not proved is subject to assessment.
V	(a) Does the Department agree with the Audit conclusions?	Partly agreed
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	The exemption are allowed to the extent which is proved with valid documentary evidences as per rule and the turnover in which exemption claimed but not proved is subject to assessment.

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	<p><b>1. Prism Cement Limited</b> 32070239223/2011-12</p>
		<p>Based on the audit objection, the assessment has been completed vide order No.32070239223/2011-12 dated 21.04.2016, creating an additional demand of Rs.1,34,930. The assessee paid Rs. 26986/- vide cheque No. 146525 dtd: 22.7.2016. The balance amount is under RR.</p>
		<p><b>2. Prism Cement Limited</b> 32070239223/2012-13</p>
		<p>Based on the audit objection, the assessment has been completed vide order No.32070239223/2012-13 dated 21.04.2016, creating an additional demand of Rs.3,23,712. The assessee paid Rs. 64743/- vide cheque No. 146526 dtd. 22.7.2016. The balance amount is under RR.</p>
		<p><b>3. Harrisons Malayalam Ltd</b> 32150341855/2011-12</p>
		<p>The objection raised was the turnover exemption of Rs.55,16,57,868/- on local sales without furnishing any statutory forms. On verification it is revealed that the assessee are tea planters who sells tea through brokers and who make available tea by storing in their warehouse to put in auction. When this tea sold in auction by the brokers they have invoiced the same on behalf of the planters and collect tax and remit the same to the Government exchequer and issue Form 25F to planters on which they get exemption from payment of tax. In this case M/s. Harrison Malayalam Ltd. are the planters who filed Form 25 F for the whole amount for which they claimed exemption for local sales. The assessing authority has verified their invoices with reference to the Form 25 F filed and convinced that the exemption claimed on local sales is in order.</p>

12. Parry Agro Industries Ltd  
32150398915/2011-12

The objection raised was the turnover exemption of Rs.66,54,16,650/- on local sales without furnishing the statutory forms. A notice u/s 25(1) was issued to the assessee. In response to the notice a detailed reply filed along with form 25F was submitted. It was examined by the assessing authority and revealed that the assessee are tea planters who sells tea through brokers. The brokers make available tea stored in their warehouse to put in auction. This tea, when sold in auction is invoiced by the brokers on behalf of the planters. They collect tax on behalf of the planters and remit the same to the Govt. exchequer. They issue Form 25 F to the planters on which the planter's get exemption from payment of tax. The dealer filed Form 25F for the whole amount and verified their invoices and convinced that the exemption claimed on local sales is in order.

13. Parry Agro Industries Ltd  
32150398915/2012-13

The objection raised was the turnover exemption of Rs.79,15,18,259/- on local sales without furnishing the statutory forms. A notice u/s 25(1) was issued to the assessee. In response to the notice a detailed reply along with form in 25F was filed and which was examined and revealed that the assessee are tea planters who sells tea through brokers. The brokers make available tea stored in their warehouse to put in auction. This tea, when sold in auction is invoiced by the brokers on behalf of the planters. They collect tax on behalf of the planters and remit the same to the Govt. exchequer. They issue Form 25 F to the planters on which the planter's get exemption from payment of tax. The dealer filed Form 25F for the whole amount and verified their invoices and convinced that the exemption claimed on local sales is in order.

**20. Kerala Trade Wing**  
**32110665535/2012-13**

The audit objection was that, as per the annual return filed, the assessee has reported a turnover of Rs.32,92,22,933/- being the second sale of medicine and has not produced any document to prove the exemption claimed.

In order to prove the exemption claimed, the assessee has produced the purchase bills in form No. 8H duly signed by the seller. Hence being a second seller of medicine exempted from payment of tax, the exemption availed is in order and the audit objection is not sustainable.

**29. M/s. Malabar Builders India Ltd**  
**32522961115/2012-13**

M/s. Malabar Builders India (P) Ltd, RM Road, Kozhikode is an assessee on the rolls of the Office of the State Tax Officer (Works Contract and Luxury Tax), Kozhikode bearing TIN 32522961115. Based on the audit objection the final assessment in respect of the assessee for the year 2012-13 was completed on 25/11/2017 by creating an additional demand of Rs.1332494/- (Tax) and Rs. 7,46,197/- (Interest). The demand is under RR.

**30. M/s. Home land builders**  
**32111573464**

Based on the audit objection the assessment has been completed vide Order No.3211573464/2013-14 dated 18/03/2017 creating an additional demand of tax and interest of Rs.1,29,515/-. The assessee has paid Rs. 19,188/-. Balance is pending under RR.

	<p><b>31. Appolo Build Tec India (P) Ltd</b>  <b>32111574906/2013-14</b></p> <p>Based on the audit objection the assessment has been completed vide Order No. 32111574906/2013-14 dtd 30/01/2016 creating an additional demand of tax Rs.13,72,365/- and interest 301920/- The total amount of Rs.16,74,285/- is pending with RR.</p>
(b)	Recovery of overpayment pointed out by audit
(c)	Recovery of under assessment, short levy or other dues
(d)	Modification in the schemes and programmes including financing pattern
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.



R. Raja Gopal  
 Additional Secretary  
 Taxes Dept

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment Output Tax (OPT) reversed without furnishing requisite documents
	(c)	Paragraph No.	2.4.7.6 (6)
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>As per Rule 10 of KVAT Rules, 2005, the dealer is entitled to deduct from his turnover, all amounts allowed to purchases in respect of goods returned by them, where the goods are taxable on the amount for which they have been sold. Section 41 of the Act stipulates that the selling dealer shall issue credit notes and the purchaser effecting the sales return shall issue debit notes in Form No. 9. Proviso to Rule 59 states that a credit note claim shall be supported by debit notes.</p> <p>Audit observed that 27 out of 41 dealers whose returns were scrutinised in ten assessment circles had adjusted Rs. 19.66 crore from their tax due, claiming it as the tax element on sales return. However, the claim was not supported by the corresponding debit notes issued by the purchasers to the credit note of the dealers. Lack of scrutiny by assessing officer resulted in escapement of such omissions undetected. The short levy of tax on this account worked out to Rs. 64.45 crore.</p> <p>Audit observed that amongst the defaulters, M/s. TV Sundaram Iyenger &amp; Sons Private Limited of Special Circle, Thiruvananthapuram was the biggest defaulter with tax effect of Rs. 44.20 crore.</p>

		Audit noticed that M/s. Nestle India Limited and M/s. Prism Cement Limited of Special Circle I, Ernakulam repeated the default for three years and M/s. TV Sundram Iyengar & Sons Private Limited of Special Circle, Thiruvananthapuram repeated the default for four years.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
V	(a)	Does the Department agree with the Audit conclusions?
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary

## REMEDIAL ACTION TAKEN

(a)	<p>Improvement in system and procedures, including internal controls.</p> <p>11. M/s. Godrej &amp; Boyce manufacturing Co. Ltd TIN. 32070248212/12-13</p>	<p><u>Deputy Commissioner, Ernakulam</u></p> <p><b>11. M/s. Godrej &amp; Boyce manufacturing Co. Ltd TIN. 32070248212/12-13</b></p> <p>The Audit objection was examined and the assessee has submitted debit and credit notes to prove sales return for an amount of Rs. 13533617.25 with tax effect of Rs. 18,14,768.85 leaving sales return of Rs.38,88,880/- with tax effect of Rs. 4,55,634/- not covered by debit note and credit notes. Out of the debit note and credit note submitted to prove the sales return two credit notes bearing No KEN 9500982 and 9600983 are related to the sales originated in the previous year 2011-12 having tax effect Rs. 3787.50 + 757.50 (Total Rs. 4545/-). So tax claim for an amount of Rs. 18,10,323.85 was allowed after disallowing Rs. 4545/- The tax effect of Rs. 4,55,634/- on sales return of Rs. 38,88,880/- which are not covered by Debit Note and Credit Notes are disallowed and added back along with Rs. 4545/- totaling to 460179/- as reverse tax in the assessment order.</p> <p>Considering these aspects the assessment has been completed vide order No. 32070248212/2012-13 dtd. 30.12.2017 and the additional demand created is Rs. 20,50,417/- (VAT) and Rs. 11,89,242/- (interest) respectively.</p> <p>The assessee filed WP(C) 9340 of 2018 before the Hon'ble High Court of Kerala, and the High Court vide its judgement dtd. 19.03.2018, directed the assessee to file before Deputy Commissioner (Appeals) and granted stay against realization of amount till orders are passed by the Deputy Commissioner (Appeals) on the stay application filed by the assessee. The appeal is pending before the Deputy Commissioner (Appeals) Ernakulam.</p>
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(i)	Recovery of overpayment pointed out by audit
(c)	Recovery of under assessment, short levy or other dues
(d)	Modification in the schemes and programmes including financing pattern
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.

*R.R.G*  
R. Raja Gopal  
Additional Secretary  
Taxes Dept



## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

	(a) Department	COMMERCIAL TAXES
	(b) Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment Excess claim of Special Rebate
	(c) Paragraph No.	2.4.7.6 (7)
	(a) Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a) Date of receipt of the Draft Para / Review in the Department	
	(b) Date of Department's Reply	
III	Gist of Paragraph/Review	As per Section 12(1) of the Act, a dealer is entitled to deduct from the tax payable by him, a sum equal to the tax paid under sub-Section (2) of Section 6 where such goods are intended for resale or for use in the manufacture of taxable goods or for use in the execution of works contract or for use as containers or packing materials for the packing of taxable goods in the state.
		Audit noticed that three out of seven dealers whose returns were scrutinised in two assessment circles had availed special rebate of Rs. 6.13 crore against a purchase tax due / paid amounting to Rs. 5.97 crore during the year 2012 - 13. Since the claim of special rebate cannot be in excess of purchase tax due, the excess claim of special rebate resulted in short levy of tax including interest and penalty of Rs. 0.51 crore.
IV	(a) Does the Department agree with the facts and figures included in the paragraph?	No
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	Since the special rebate can be carry forward to the next period, there is no irregularity in this case
V	(a) Does the Department agree with the Audit conclusions?	No
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	Since the special rebate can be carry forward to the next period, there is no irregularity in this case

84

## REMEDIAL ACTION TAKEN

a) Improvement in system and procedures, including internal controls. M/s. St. Mary's Rubbers Pvt Ltd-  
32050276345/12-13

The assessee had claimed Special Rebate of Rs. 41322678.00 which consists of special rebate for the period from March 2012 to February 2013, since the special rebate can be carry forward to the next return period. So the special rebate carry forwarded by the assessee found correct.

(b) Recovery of overpayment pointed out by audit

(c) Recovery of under assessment, short levy or other dues

(d) Modification in the schemes and programmes including financing pattern

(e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.



R. Raja Gopal  
 Additional Secretary  
 Taxes Dept

**ACTION TAKEN NOTES ON C & AG'S REPORTS**

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	<p><b>Non adherence to provisions of Act and Rules while completing the assessment</b></p> <p>Irregular claim of exemption from the contract receipt by dealers who opted to pay tax under compounding scheme</p>
	(c)	Paragraph No.	2.4.7.6 (9)
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		List of Paragraph/Review	<p>As per Section 8(a) of the Act, a dealer instead of paying tax under section 6, can opt for payment of tax at the rate stipulated for the whole amount of contract. As such, a dealer who opted to pay tax under Section 8(a), is not eligible to deduct any amount from the contract receipt received by him. This position was upheld in a judicial review by the High Court of Punjab and Haryana 14.</p> <p>Audit found that 12 out of 22 works contractors/builders in four assessment circles had availed exemption of the value of land amounting to ₹ 33.14 crore from their contract receipt to arrive at the taxable turnover. This is against the provisions of the Act and had resulted in short payment of tax including interest and penalty of ₹ 3.30 crore.</p> <p>Audit observed that amongst the defaulters, M/s. Hilite Builders of Works Contract Office, Kozhikode was the biggest defaulter with tax effect of ₹ 1.19 crore. Audit noticed that M/s. Pazheri Properties &amp;</p>

		Developers (P)Ltd of Works Contract Office, Kozhikode repeated the default for three years.
		Audit found that acceptance of returns of the dealers who were not adhering to the provisions in the statute led to evasion of tax.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
V	(a)	Does the Department agree with the Audit conclusions?
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	<p><b>9. Sreerosh Properties (P) Ltd</b>  <b>32121266804/2012-13</b></p> <p>The assessment for the year 2012-13 has been completed as per Order No. 32121266804/2012-13 dated 03.11.2015 by allowing exemption on sub-contract proved with Form 20H and eligible land value and created an additional demand of Rs.4,61,207/- (Tax) &amp; Rs.1,38,,362/- (Interest) and Total Rs.5,99,569/-.</p>
		<p>Against the order, the assessee preferred appeal before the Deputy Commissioner (Appeals), Kozhikode and the appellate authority dismissed the appeal on 11.10.2017. Aggrieved by this order, the assessee filed appeal before the Hon'ble High Court of Kerala (WPC 610/18) and the Hon'ble High Court of Kerala stayed further proceedings.</p>
		<p><b>10. Sreerosh Properties (P) Ltd</b>  <b>32121266804/2013-14</b></p> <p>Based on the audit objection the assessment for the year 2013-14 has been completed as per Order No. 32121266803/13-14 dated 15.02.2016 creating an additional demand of Rs.6,55,422/- (Tax Rs.5,41,671/-, Interest Rs.1,13,751/-).</p> <p>Against the order the assessee preferred appeal before the Deputy Commissioner (Appeals), Kozhikode and the Deputy Commissioner (Appeals), Kozhikode dismissed the appeal on 11.10.2017.</p> <p>Aggrieved by the order, the assessee filed 2<sup>nd</sup> appeal before the Hon'ble High Court of Kerala as per WP(C) 610/17 and the Hon'ble High Court of Kerala stayed further proceedings.</p> <p><b>11. SB Developers</b>  <b>321212668045/2011-12</b></p> <p>The assessment for the year 2011-12 has been completed, considering the land value as per Order No. 32121208045/11-12 dated 20.09.2014 creating an additional demand of Rs.3,36,644/-.</p>

Against the order, the assessee filed appeal before the Deputy Commissioner (Appeals), Kozhikode and the appellate authority directed to modify the assessment as per VATA No. 06/15 dated 08.05.2017.

**12. SB Developers**  
**321212668045/2012-13**

Based on the audit objection the assessment for the year 2012-13 has been completed as per Order No. 32121208045/12-13 dated 20.09.2014, creating an additional demand of Rs.2,01,464/-.

Against the order, the assessee filed appeal before the Deputy Commissioner (Appeals), Kozhikode and the Deputy Commissioner (Appeals), Kozhikode modified the order as per VATA No. 07/15 dated 08.05.2017.

**13. Beeline Builders and Developers Pvt. Ltd**  
**32111511849/2012-13**

Based on the audit objection the assessment has been completed vide order no. 32111511849/2012-13 dtd. 28.10.2017 and created additional demand Rs. 72,765/-. The demand is under RR.

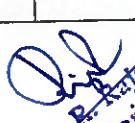
**14. M/s. Pentium Construction**  
**32111514595/2011-12**

Based on the audit objection the assessment has been completed vide order no. 32111514595/2011-12 dtd. 08.01.2018 and created additional demand Rs. 11,33,570/- and Interest Rs. 7,93,499/-. The demand is under RR.

**18. M/s. Jayaraj Properties**  
**3072015935/2010-11**

Based on the audit objection the assessment for the year 2010-11 has been completed u/s. 25(1) vide order No.32072015935/2010-11 dated 29.09.2012 creating an additional demand of Rs 2,80,026/-(VAT) and Rs.49,900/- (Interest). The demand is under RR.

(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

  
 R. Annu Gopal  
 Additional Secretary  
 Taxes Dept

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	STATE GOODS AND SERVICE TAX																																
	(b)	Subject/Title of the Review Paragraph	Result of Audit																																
	(c)	Paragraph No.	2.3																																
	(d)	Report No. and Year	C & AG Report for the year ended 31.03.2015																																
II	(a)	Date of receipt of the Draft Para / Review in the Department																																	
	(b)	Date of Department's Reply																																	
III		Gist of Paragraph/Review	<p>Test check of the records relating to KVAT /KGST and CST assessment and connected documents in 160 out of 169 offices of the Commercial Taxes Department conducted during 2014-15 showed underassessment of tax and other irregularities involving ₹ 1,771.71 crore in 1,812 cases. which fall under the following categories.</p> <table border="1"> <thead> <tr> <th>Sl. No.</th> <th>Categories</th> <th>No. of cases</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Performance Audit on "System of Assessment under KVAT"</td> <td>1</td> <td>1,191.72</td> </tr> <tr> <td>2.</td> <td>Turnover escaping assessment</td> <td>976</td> <td>431.61</td> </tr> <tr> <td>3.</td> <td>Grant of irregular exemption</td> <td>204</td> <td>33.29</td> </tr> <tr> <td>4.</td> <td>Application of incorrect rate of tax</td> <td>44</td> <td>13.90</td> </tr> <tr> <td>5.</td> <td>Grant of excess input tax credit</td> <td>140</td> <td>6.34</td> </tr> <tr> <td>6.</td> <td>Other lapses</td> <td>447</td> <td>94.85</td> </tr> <tr> <td></td> <td>Total</td> <td>1,812</td> <td>1,771.71</td> </tr> </tbody> </table>	Sl. No.	Categories	No. of cases	Amount	1.	Performance Audit on "System of Assessment under KVAT"	1	1,191.72	2.	Turnover escaping assessment	976	431.61	3.	Grant of irregular exemption	204	33.29	4.	Application of incorrect rate of tax	44	13.90	5.	Grant of excess input tax credit	140	6.34	6.	Other lapses	447	94.85		Total	1,812	1,771.71
Sl. No.	Categories	No. of cases	Amount																																
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	Total	1,812	1,771.71																																

During the course of the year, the Department accepted underassessment and other deficiencies involving ₹ 187.09 crore in 1,162 cases which were pointed out in Audit. An amount of ₹ 8.49 crore was realised in 628 cases during the year 2014-15 of which 51 cases involving ₹ 0.60 crore were pointed out in 2014-15 and the rest in earlier years.

Department recovered full amount in a draft paragraph issued, pertaining to M/s. Five Star Cone Crusher and Hollow Bricks, Peravoor and involving ₹ 9.69 lakh based on the Audit observation, in November 2013.

The reasons for non/short realisation of the amounts in cases accepted by the Department were called for in September 2015. A Performance Audit on System of Assessment under KVAT with financial year impact of ₹ 1,191.72 crore.

		Does the Department agree with the facts and figures included in the paragraph?	
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	Detailed report spread over succeeding paras and action action taken separately.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment; short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

*Sury*  
 സിനി എ. സുര്യൻ  
 അധികാരി സെക്രട്ടറി  
 നിരൂപി റഫൈൻ  
 ശബ്ദരഹം സെക്രട്ടറിയും  
 തിരുവനന്തപുരം

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Performance Audit on System of Assessment under KVAT Highlights
	(c)	Paragraph No.	2.4.1
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>Department failed to bring majority of dealers under tax net by registering them to VAT system. Though Economic Census 2013 reported that there were 13.41 lakh establishments operating with fixed structure outside the household having different economic activities other than agricultural, service and defense, during 2013-14, but only 2.20 lakh dealers were registered for VAT in the State. Test check by Audit revealed non-levy of tax of ₹.200.94 crore including interest and penalty on transactions of unregistered dealers.</p> <p>Non-adherence to provisions of Act and Rules while completing the assessment resulted in non/short levy of tax of ₹. 744.99 crore including interest and penalty.</p> <p>Lack of co-ordination with other Departments in collecting data useful for the completion of</p>

		assessment resulted in non/short levy of ₹ 117.62 crore including interest and penalty. There was no system in place for analysis and utilisation of the data available in the KVATIS before acceptance of self assessments/completion of assessments. Scrutiny of cases revealed non/short levy of tax of ₹.128.17 crore including interest and penalty due to these deficiencies.
		Internal control mechanism existing in the Department was not sufficient
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
V	(a)	Does the Department agree with the Audit conclusions?
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary

VI

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	Highlights discussed in succeeding paras. No remarks
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

  
 സ്ഥാപിത കെ. ആര്യൻ  
 അധികാരി, ആസൂത്രണ ബഹുമാനപ്പെട്ട  
 നികുതി പഠന പര്യാപ്ത  
 ടൈപ്പിസ്റ്റ് സ്കോറേറ്റർ എഞ്ചിനീയർ  
 കുമ്പള്ളുപുരം

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Introduction
	(c)	Paragraph No.	2.4.2
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>The Kerala Value Added Tax (KVAT) Act, 2003 and KVAT Rules, 2005 regulate the levy and collection of tax on sales and purchases of goods in the State. The system of value added taxation was introduced in the State with effect from 1 April 2005.</p> <p>VAT is a multi-stage tax levied at each stage of the value addition chain, with a provision to allow Input Tax Credit (ITC) on tax paid at an earlier stage, which can be appropriated against the VAT liability on subsequent sale. VAT constitutes major portion of State revenue and hence assessment of VAT has a direct bearing on the tax collection and quality of tax administration.</p> <p>With the introduction of VAT, the concept of assessment by assessing officers was basically withdrawn and the system of self assessment was introduced. Under the self assessment system, the</p>

		<p>dealers are required to file periodical returns and if the return so submitted is in the prescribed manner and accompanied by the prescribed documents, the assessment for the return period shall be deemed to have been completed. Provisions for reopening of the self assessments consequent to the detection of any turnover escaping assessment, application of incorrect rate of tax etc., have also been provided in the Act.</p> <p>As part of the e-governance initiative and the introduction of VAT, the Department had introduced an application software system called KVATIS, to capture the complete workflow of the Department in all functional areas. The main objective of KVATIS was to develop a user-friendly IT solution for the effective and transparent tax administration with maximum tax collection and thereby reduce the tax evasion and corruption. The project also aimed at greater tax compliance by simplifying the procedures and timely delivery of better services to the stakeholders. The application software became operational during 2007-08.</p>
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
V	(a)	Does the Department agree with the Audit conclusions?

	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA
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VI

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	No remarks
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

  
 സിനി ടെ. എസ്റ്റേറ്റ്  
 അഡിഷൻസ് സൊറ്റിനി  
 നികുതി ടെക്നിക്സ്  
 ട്രാൻസ്ഫോർമേഷൻ  
 നിലവിലെത്തിരുപ്പിലും

11

**ACTION TAKEN NOTES ON C & AG'S REPORTS**

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Organisational setup
	(c)	Paragraph No.	2.4.3
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	The organisational setup of the assessment wing of the Department.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	No Remarks
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

  
 ராஜா. வி. வி. வெங்கடே  
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102

13

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	<b>Audit Objectives</b>
	(c)	Paragraph No.	2.4.4
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	The review was conducted to ascertain whether: the taxpayers are identified properly and the assessments are done according to provisions of the Act, Rules and orders. The assessment criteria has been prescribed for selection of files for detailed scrutiny and if so, the selection was made as per the prescribed criteria. a mechanism has been established to monitor internal control and the quality of the assessment orders.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

103

14

VI

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	No Remarks
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

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സിനി എം. എസ്റ്റാറ്റ്  
അധികാരി കമ്പാനി  
സിനി എം. എസ്റ്റാറ്റ്  
ഗവൺമെന്റ് സെക്രട്ടറിയറ്റ്  
താരുവന്തൻപുരം

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Scope and methodology of audit
	(c)	Paragraph No.	2.4.5
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>The performance Audit (PA) was conducted between February 2015 and September 2015 covering the period from 2010-11 to 2014-15 . Audit selected 36 out of the 73 assessment circles in six districts (fifty per cent) . This selection was based on simple random sampling method. At each assessing officer's level, assessment files were selected through risk analysis based on gross turnover (GTO), commodity dealt, ITC claimed, sales return, check post transactions etc. During the audit, inter-departmental data from Customs department on imports of goods by dealer along with the data from other Central / State Government agencies were gathered to cross verify the same with the inputs provided by the assessees in KVATIS . Various Local Audit Reports covering audit observations relating to KVAR assessments were also reviewed in addition to assessment records maintained at selected units.</p>

			An entry conference was conducted on 20 May 2015 with the Principal Secretary(Taxes) wherein the scope and methodology adopted for the PA were explained. An Exit conference was held on 01 December 2015 with the Principal Secretary(Taxes) where-in the audit findings were discussed.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

VI

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	No Remarks
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

  
 സ്റ്റാറ്റിസ്റ്റിക്സ് ആൻഡ് ആപ്പ്ലിക്കേഷൻസ്  
 സ്റ്റാറ്റിസ്റ്റിക്സ് വിഭാഗത്തിലെ  
 മൗലിക പ്രവർത്തനങ്ങൾ മുൻകൊണ്ട്  
 സ്റ്റാറ്റിസ്റ്റിക്സ് വിഭാഗത്തിലെ  
 മൗലിക പ്രവർത്തനങ്ങൾ മുൻകൊണ്ട്

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	<b>Audit Criteria</b>
	(c)	Paragraph No.	2.4.6
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>The audit criteria was derived from the following Acts and Rules.</p> <p>Kerala Value Added Tax Act, 2003</p> <p>Kerala Value Added Tax Rules, 2005</p> <p>Notifications and Orders issued by Government</p> <p>Circulars and Clarifications issued by the Department</p> <p>Circulars issued by Central Board of Direct Taxes (CBDT) and Central Board of Excise and Customs (CBEC).</p>
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

VI

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	No Remarks
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

  
 ஸிறி ஜி. ஷுக்ரீ  
 அவிஷ்கார் ஸுமித்ரா  
 நிதியீ வகை  
 டவுள்ளீர் கலைக்கப்பார்வை  
 திருவாரூபாபுரம்

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Failure to bring dealers under tax net and consequent escapement of turnover from assessment
	(c)	Paragraph No.	2.4.7.1
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>Section 15 of the KVAT Act, 2003 stipulates that every dealer whose total turnover in any year is not less than Rs. 5 lakh shall get himself registered under VAT. Further, this turnover shall not apply in case of casual dealer, contractors, dealers registered under Central Sales Tax Act, 1956 etc. Section 15 C of the KVAT Act, 2003 envisages that every person who intends to establish an industrial may get himself registered.</p> <p>As of 31<sup>st</sup> March 2014, a total of 2.20 lakh dealers were registered with CTD as per the data furnished by the Commissioner of Commercial Tax.</p> <p>The sixth Economic Census 2013 conducted by the department of Economics and Statistics revealed that there were 13.41 lakh establishments operating with fixed structure outside the house hold having different economic activities other than agriculture, service and defence. Moreover, the Economic Review (2014) of the State Planning Board showed that the total number of small scale industries and</p>

		micro, small and medium enterprises registered in the State as of 31 <sup>st</sup> March 2014 was 2.34 lakh. The CTD had failed to collect the data available with other departments like Economic and Statistics, State Planning Board, District Industries Centre, Kerala State Industrial Development Corporation and Kerala Financial Corporation and to make use of the same to analysis and find whether all those dealers who were liable to be registered under the Act were actually registered or not. As per data available in KVATIS, audit found that the CTD failed to bring all the dealers under tax net who were compulsorily to be registered. This resulted in escapement of dealers from assessments and consequent non levy of tax.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
V	(a)	Does the Department agree with the Audit conclusions?
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	During the period earnest efforts were taken to bring maximum number of dealers under the tax net. The Economic Intelligence Wing of the department after gathering data from other Government agencies, cross verified the same with the details available with the department and will distribute the cases to Joint Commissioners/ Joint Commissioners(Intelligence) for further proceedings under the Act. Street surveys and test purchases were frequently conducted and thereby the department succeeded issuing registrations to dealers who were liable to be registered under the VAT Act.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

  
 ஸ. வெங்கடேசாரன் அமைச்சர்  
 தொழில்நிலை மற்றும் வணிகம் அமைச்சர்  
 தொழில்நிலை மற்றும் வணிகம் அமைச்சர்  
 தொழில்நிலை மற்றும் வணிகம் அமைச்சர்

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	The system of scrutiny of returns not properly defined in the Act or in any guidelines issued
	(c)	Paragraph No.	2.4.7.2
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>Sections 22, 24 and 25 of the Act envisages detailed scrutiny on returns filed. Audit examined whether any criteria existed in CTD regarding selection of files for detailed scrutiny. As per the Act, it is mandatory to verify all the tax returns submitted, but has not been prescribed whether all or any of the return so submitted are to be scrutinized in detail by the assessing authority. The CCT had not issued any instructions regarding criteria for selection of cases for detailed scrutiny. Hence the assessing officers were selecting assessment files for scrutiny arbitrarily.</p> <p>On introduction of VAT, compulsory assessment was done away with. Scrutiny of returns is the only mechanism to ensure whether legitimate tax due has been remitted to Government account. After the introduction of KVATIS, the Department issued instructions for</p>

the scrutiny of returns through KVATIS and the assessing authority was to endorse a certificate in KVATIS to that effect. Audit analysed the quantum of online scrutiny of periodical/annual returns by assessing officers in twenty assessment units done during 2012-13 and 2013-14 and found the extent of scrutiny to be very meager as shown

In the absence of scrutiny, assessees, especially dealers having high GTO and dealers dealing in evasion prone commodities will have a tendency to underestimate their liability to pay tax.

Government stated (December 2015) that many parameters have been fixed for selection of returns which are discussed in the review meetings. For improving system based scrutiny, a departmental committee has furnished a detailed proposal which will be implemented as soon as the server constraints are resolved. However, details of implementation of proposals of the Departmental Committee called for had not been furnished (January 2016).

Further, Audit called for the details of scrutiny, both online and manual for the years 2010 – 11 to 2014 – 15. However, since online scrutiny commenced only in 2013 – 14 and the details of manual scrutiny during 2014 – 15 were not complete, Audit verified the scrutiny for the year 2013 – 14 conducted in 12 Special Circles

and found that during the year 2013 – 14, 735 out of 4,984 assessment files were selected for detailed scrutiny. In the absence of any instructions or guidelines, Audit found that criteria like turnover of the dealer, commodities dealt, the quantum of ITC availed, the volume of goods transported into the State etc, were not adopted in selecting the files for detailed scrutiny. Thus, such adhocism was affecting the transparency in the selection process of files for scrutiny and permitting the assessing officers to use their discretion in selecting files, which was currently unfettered in the absence of such norms/guideline/instructions. An analysis of the dealers with their GTO and selection of their files for detailed audit.

Audit observed that more than thirty per cent of the self assessment cases selected for scrutiny were reopened and the assessment were completed by creating additional tax demand. It was noticed that the additional demand created on the files of top dealers was more than twelve times in respect of other dealers.

Government stated (December 2015) that instructions have been issued setting forth important criteria. System of centralised selection of files has also been implemented now. However, the details of instructions issued for the selection of files though called for had not been furnished (January 2016).

Audit looked at Central Revenue

			Departments such as CBDT and CBEC which issues guidelines each year regarding selection of assessees for detailed scrutiny and monitoring mechanism for assessment cases.  Audit found that no such system is existing in the Department for selection of scrutiny of files.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	Circular instructions and directions were issued with regard to return scrutiny and subsequent assessment. Check list were prepared for the parameters to be verified. Specific work plan were fixed to complete the VAT assessment which includes assessments based on the OR/CR files received from the Intelligence Wing. It is mandatory to ensure that VAT files are scrutinize in details and assessed where ever escapement/ suppression is found. Guidelines were issued to offices concerned disposal of assessment as per statute.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

  
 ஸி. ஸி. வெங்கடேஷ்வரன்  
 அமைச்சர் பொது விதிவிவர துறை  
 தலைவர் தலைவர் தலைவர்  
 துறை பொது விதிவிவர துறை

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Absence of review mechanism of reports of scrutiny
	(c)	Paragraph No.	2.4.7.3
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>As per Circular of CCT every assessing officer should send monthly reports to jurisdictional Deputy Commissioners (DC) showing the details of scrutiny such as period, number of files selected and results etc., done by them. Audit verified whether these reports were received, reviewed and analysed to see whether the selection of files for scrutiny was fair and adequate and also whether any directions were issued for strict compliance.</p> <p>Scrutiny of the minutes of the monthly conferences conducted in three districts during 2012 – 13 by the DCs revealed that though there was lack of scientific approach in the selection of files for detailed scrutiny, no specific directions were issued. The monthly/ quarterly reviews were limited only to collection of tax against the target fixed and an analysis of reports of scrutiny was not being done regularly.</p> <p>Government stated (December 2015) that this has been emphasised in all the review</p>

		meetings of the Deputy Commissioners. Nodal Officer mechanism involving senior officers is in place to monitor every district since 2015. Also that thematic review meeting is conducted periodically for specific areas of evasion of tax. Reply is not acceptable as documents to substantiate the statement were not made available to Audit (January 2016).
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
V	(a)	Does the Department agree with the Audit conclusions?
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary

VI

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	Monthly review meetings were conducted at JC level. Nodal officers were posted for monitoring in every district and review report obtained monthly.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

  
 സിനി വൈ. സുവിജൻ  
 അധികാരി, കമ്മീഷൻ  
 നികുതി നടപ്പിലാക്കണമെന്ന്  
 തയ്യാറാക്കുന്ന കമ്മീഷൻ കൗൺസിൽ  
 റിക്വിറ്റിംഗ് പ്രാബല്യമുണ്ട്

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Time limit for completion of assessment reopened not prescribed in the statute
	(c)	Paragraph No.	2.4.7.4
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>As per Sections 22, 24 and 25 of KVAT Act, 2003, it is mandatory to issue notice to the dealer for being heard about the discrepancies noticed in the return or accounts before proceeding for assessment to the best of assessing authority's judgment. However, there was no provision in the statute fixing a time limit to complete the assessment if no reply is received within the time limit of one to two weeks prescribed in the notice or if the reply received from the dealer is not satisfactory.</p> <p>In the absence of such a provision in the statute, Audit found that in eight cases out of 120 files test checked in three assessment circles, assessments were not completed even after five years though pre-assessment notices to reopen the self assessments had been issued.</p>
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach	NA

		copies of relevant documents in support	
V	(a)	Does the Department agree with the Audit conclusions?	NA
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	Guidelines and specific work plans were fixed and issued for disposal of assessments and appeal disposed cases. The position is being reviewed by the Joint Commissioners concerned.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

*Sent*

സിനി ജെ. ഷുഠുർ  
അബ്ദീഷ്വരൻ സെക്രട്ടറി  
സിംഗാർ വകുപ്  
ഗവൺമെന്റ് സെക്രട്ടറിയേറ്റ്  
ഹിൽവന്നേപ്പാം

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Lack of a Department Manual to formulate a system in the assessment of tax under KVAT Act
	(c)	Paragraph No.	2.4.7.5
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>After the introduction of the KVATIS, the works attended by the supporting staff in the assessment circles were considerably reduced due to automation of functions. Thus, the Department could have utilised their service effectively in areas such as scrutiny of returns of presumptive tax dealers/returns with less turnover reported, conduct street survey etc., towards ensuring better tax collection regime.</p> <p>Audit observed that though the Department issued directions specifying the duties and responsibilities of the Assessing Officers and clerks, the duties mentioned for clerks in the circular were not relevant after the introduction of KVATIS system. The directions were silent on duties and responsibilities of other important categories like Inspector, Junior Superintendent etc.</p>
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes

	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

VI

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	At present registers are being maintained properly and more over all pre-GST arrear details are available in the pre-GST arrear module of the GST back – end.
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

*Surendran*  
 സുരേന്ദ്രൻ. സുരേന്ദ്രൻ  
 അദ്ധ്യക്ഷാംഗ സമാജക്കാരി  
 നിര്ദ്ദേശ വകുപ്പ്  
 ചെമ്പന്തിട്ടു നാട്കരിക്കായുടെ  
 തിരുവായോളം

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment
	(c)	Paragraph No.	Accounted Sales escaping Assessment 2.4.7.6 (1)
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>Section 42(1) of KVAT Act, 2003 stipulates that every dealer whose total turnover in a year exceeds rupees sixty lakh shall get his accounts audited annually by a Chartered Accountant or Cost Accountant and shall submit a copy of the audited statement of accounts and certificate in Form 13 &amp; 13A. Section 24(1)(a) of the Act, stipulates rejection of the return, if there is discrepancy between the return filed and audited accounts and to complete the assessment to the "best of judgement". As per section 42(2) of the Act, the dealer is liable to pay any additional tax with reference to the audited figures, interest thereon under Section 31(5) and penal interest at twice the rate of interest accrued.</p> <p>Audit noticed that in 14 assessment circles, 15 dealers failed to report the accounted sales whereas 14 dealers failed to report the turnover accounted as 'other receipts'.</p> <p>The 'other receipts' were warranty claim, AMC</p>

receipt, trade discount, subsidy or other receipts to n up the loss sustained etc. which were liable for tax. The total turnover escaped from assessment of tax worked out to Rs. 323.22 crore and the resultant short levy of tax including interest under Section 31(5), penal interest and penalty under Section 67 amounted to Rs.105.30 crore (Appendix V). The Tax district-wise deviation from provisions of the Act/Rules.

Audit observed that amongst the defaulters, M/s Hindustan Unilever Limited of Special Circle Mattancherry was the biggest defaulter with tax effect of Rs. 41.61 crore. The nature of business dealt with by other dealers are given below:

- Four in Fast Moving Consumer Goods with tax effect of Rs. 51.09 crore.
- Four in Supermarket with tax effect of Rs. 7.50 crore.
- Three in batteries with tax effect of Rs. 4.50 crore.
- Eighteen in multiple commodities with tax effect of Rs. 142.21 crore.

Thus, failure of assessing officers to adhere to the provisions of the Act and rules resulted in non-detection of irregularities.

IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	No
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	No

		If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA
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VI

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls	<u>Sl. No. 1 M/s. Godrej &amp; Boyce Mfg. Co. Ltd</u> <u>(TIN- 32070248212/13-14)</u>  While completing assessment, the above audit objection was considered and additional demand to the extent of Rs. 12,12,893.23/- (tax) and Rs. 4,55,948/- (interest) was created (Order No. 32070248212/13-14 dtd 19.05.17).
		<u>Sl. No. 2 M/s. Benetton India P. Ltd. 32070286989</u> <u>(TIN / Year 2013-14)</u>  A pre-assessment notice dated 10.05.2016 was issued to the dealer. The dealer filed a reply with a reconciliation of the figure as below:-

Item	As per annual return	As per audited statement	Difference
Local sales	1,80,39,805.00	1,71,66,443.00	-8,73,362.00
Stock transfer	9,240.00	32,97,557.00	32,88,317.00
Total	1,80,49,045.00	2,04,64,000.00	24,14,955.00

An amount of Rs. 8,73,362/- was excess reported in local sales whereas branch transfer out for Rs. 32,88,317/- was short reported in the annual return. So there is no additional tax liability in the instant case but actually there is excess payment

of tax on turnover of Rs. 8,73,362/- . The branch transfer supported by declaration in Form F for Rs. 32,97,557/-.

Sl. No. 10- M/s. Supermax PersonalCare(P) Ltd.  
(TIN32070310839/2012-13)

For the above year, the assessee conceded an amount of Rs.3,38,91,227/-as income received under the head 'others' in the audited statement in 13/13A. The sale bills produced by the dealer were verified and it was ascertained that this amount pertains to free issues given as discount to dealers. As these goods were issued for no valuable consideration and shown through sale bills, the assessee is eligible for deduction of the amount, as no tax element is involved in this case .Hence the audit enquiry may kindly be dropped.

Sl. No. 11- M/s. Supermax PersonalCare(P) Ltd.  
(TIN32070310839/(2013-14)

Based on the defects pointed out in the audit objection and also inclusive of certain other irregularities noticed on verification, assessment for the year 2013-14 has been completed. Additional demand created Rs. 1,21,126.00(Tax Rs. 70,834.00 and interest Rs. 50,292.00)

This amount is adjusted along with balance interest from the excess amount pertaining to the year 2011-12.

Tax due for the year 2013-14	:	Rs. 70,834.00
Interest from 4/14 to 9/2020	:	Rs. 55,250.00

Amount adjusted from 2011-12 as

per modified	:	Rs. 1,26,084.00
Order No. 32070310839/2011-12		
dated 06.10.2020	=====	

**Sl.No.12 M/s. Reliance Trends Ltd (TIN 32070422103/13-14)**

The Accountant General has pointed out that M/s Reliance Trends Ltd Ernakulam TIN: 32070422103 has shown an amount of Rs. 3,74,79,405/- as other receipts for the year 2013-14 in the audit report but the same has not been returned. On the basis of the above objection the assessing authority issued notice under section 25(1) of the KVAT act 2003 to the dealer and verified the books of accounts and found that M/s Reliance Trends Ltd has been merged to M/s Reliance Retails Ltd as per the order number in Company Scheme Petitions in: 129/2013 connected with Company summons for direction No : 98/2013 of the Hon'ble High Court of Bombay . It was also noticed that this amount has been realised by the dealer on the sale of business as whole to Reliance Retails Ltd holding TIN: 3270482695.

The amalgamation has been taken place between the companies as per the powers vested upon the Article 391 to 394 of the Companies Act 1956.

Article 394 of the Companies Act 1956 is reproduced for kind perusal:-

**394. PROVISIONS FOR FACILITATING RECONSTRUCTION AND AMALGAMATION OF COMPANIES** (1) Where an application is made to the 1 [Tribunal] under section 391 for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in

that section, and it is shown to the 1 [Tribunal] - (a) that the compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of any company or companies, or the amalgamation of any two or more companies ; and (b) that under the scheme the whole or any part of the undertaking, property or liabilities of any company concerned in the scheme (in this section referred to as a "transferor-company") is to be transferred to another company (in this section referred to as "the transferee-company") ; the 1 [Tribunal] may, either by the order sanctioning the compromise or arrangement or by a subsequent order, make provision for all or any of the following matters : (i) the transfer to the transferee-company of the whole or any part of the undertaking, property or liabilities of any transferor-company ; (ii) the allotment or appropriation by the transferee-company of any shares, debentures, policies, or other like interests in that company which, under the compromise or arrangement, are to be allotted or appropriated by that company to or for any person ; (iii) the continuation by or against the transferee-company of any legal proceedings pending by or against any transferor-company ; (iv) the dissolution, without winding up, of any transferor-company ; (v) the provision to be made for any persons who, within such time and in such manner as the 1 [Tribunal] directs, dissent from the compromise or arrangement ; and (vi) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out .

Rule 10 (1) (f) of the Kerala Value added Rules 2005 is detailed below for kind perusal:-

Rule:10 Determination of Taxable turnover (1) In determining the taxable turnover , the amounts specified in the following clauses shall, subject to the conditions specified therein be deducted from the total turnover of the dealer :-

Clause (f):- all amounts realised by a dealer by the sale of his business as a whole

From the above it is clear that all the actions of the dealer is as per the Article 291 to 294 of the Companies Act 1956 and the amount received by way of such transfer of business as whole exempted from the tax as per Rule 10(1) (f) of the Kerala Value Added Tax Rules 2005.

Sl. no. 13 M/s. Tata Autocomp GY Batters (P) Ltd  
32071313204/2013-14

The audit observed that the dealer has not short returned Rs. 1.86 Crore than the audited accounts.

The assessing authority has reported that the dealer allowed discount amounting to Rs. 1,85,93,854/- through sales invoices during the year 2013-14. This has been duly conceded in the statutory audit report in Form No. 13A under the head "others". As per explanation III(ii), any discount on the price allowed in respect of any sale where such discount is shown separately in the tax invoice and the buyers pays only the amount reduced by such discount or any amount refunded in respect of goods returned by customers shall not be included in the turnover. Thus discount is an allowable deduction under the KVAT Act 2003 and hence the case is not sustainable.

Sl. no.14 Berger Paints India Ltd- 32150254454 / 2013-14

Berger Paints India Ltd. is an assessee registered with TIN 32150254454 on the rolls of the Assistant Commissioner, Special Circle, Mattancherry at Aluva. In the annual return for the year 2013-14, the assessee reported local sales turnover of Rs.2,97,90,61,023.00 , interstate sales turnover of Rs.1,53,49,734.00 and Inter state stock transfer Out of Rs. 3,03,28,33,745.00 In the audit report filed in 13, 13A for the year 2013-14, the assessee reported local sales turnover to the tune of Rs.2,97,92,88,674.00, Interstate sales turnover of Rs.1,54,97,219.00 and interstate stock transfer out of Rs.4,74,37,778.00. The total turnover as per annual return and audit report is given as under :-

As per Annual Return

Local Sales	:	Rs.2979061023.00
Interstate Sales	:	Rs. 15349734.00
Interstate Stock Transfer Out	:	Rs. 38422988.00
		-----
		Rs. 3032833745.00

As per Form 13,13A

Local sales	:	Rs.2979288674.00
Interstate Sales	:	Rs. 15497219.00
Stock Transfer Out	:	Rs. 47437778.00
		-----
		Rs. 3042223671.00

Difference in turnover	:	Rs. 9389926.00
Other Receipts reported in 13,13A	:	Rs. 17737721.00
		-----

Total Difference in turnover reported : Rs.2,71,27,647.00

The assessee filed Audit Report on 03.03.2015 along with a copy of reconciliation statement explaining the difference between annual return and 13,13A figures certified by the auditor

Other receipts returned to the tune of Rs.1,77,37,721.00 in the audit report was entered in part F Debit note column of annual return and corresponding tax was paid by the assessee. The assessee gave an explanation that the Debit note issued was towards reversal of various benefits given in invoices. The debit note was not for purchase returns as in usual case. Hence the debit note issued is not supported with corresponding credit note.

Also there was mistake in uploading monthly returns in local sales turnover and interstate sales turnover to the tune of Rs.3,75,136.00 for that year. There was also a difference in Interstate stock transfer Out amounting to Rs.90,14,790.00.

The assessee filed request for revision of returns pointing out these defects on 04.07.2015. Accordingly permission was given to revise monthly returns and the assessee revised monthly return for the year 2013-14. Revision of annual return is pending.

Hence no loss of revenue occurred in this case.

Sl.No.15.Hindustan Unilever Limited 32150254454/2013-14

Amount mentioned in the C&AG report as "Other receipt not returned" could not be traced out from the returns an audit report filed by the assessee. It is requested to view the clarification on the figure arrived for further action.

Sl. no.18 Tata Coffee Ltd./2013-14(TIN-32150341855)

The audit objection raised is that as per the P/L account and the schedules attached the dealer has shown an other income of Rs.569.98 crores which is not reflected in their annual return. Verification of the books of accounts revealed the facts stated below :-

The dealer is a Limited Company having registered office at Bangalore with extensive operations in Karnataka, Tamilnadu and Kerala and some trading activities in other states. The annual report from which the above figure of income aggregating Rs.569,98,760.71/- has been extracted contains the operations results of the Company as a whole including Karnataka, Tamilnadu and Kerala. The sale of goods transactions related to Kerala have been fully reported in the returns filed in Kerala. The rest of the account is of transactions that have taken place outside the state and not eligible to tax in Kerala. It is also submitted that the said turnover represents global income of Tata coffee limited and do not contain any element of turnover taxable under the Kerala Value Added Tax Act 2003. The breakup of the different heads of income declared in the profit and loss account is as follows:-

Profit on sale of Scraps for Rs. 2,61,26,236.94

Miscellaneous income of Rs. 3,00,77,091.16

Income from sale of Fixed assets 7,95,432.61

Total - 569,98,760.71

- Profit on sale of Scraps for Rs 261.26 Lakhs:-

State	Division	Value
Karnataka	Plantation	42,51,081.96
Tamilnadu	Anamalai , Theni	1,57,47,238.59
Telengana	Toopran	61,27,916.39
	Total	2,61,26,236.94

- The state wise break up of miscellaneous income of Rs 300.77 lakhs is as follows:-

State	Income Head	Value	Total State Wise
Karnataka	forfeiture of Customer credit balance (Timber Value Addition)	2,02,264.00	
Karnataka	Rebate by Supplier	5,75,159.00	
Karnataka	Discount by Supplier	2,91,429.00	
Karnataka	Generator Service	22,992.00	
Karnataka	Credit Card Discount by Bank	25,217.00	
Karnataka	Room Cancellation Charges	1,27,627.00	
Karnataka	Golf/Other usage charge	51,209.00	
Karnataka	Helper charges (TCS)	1,22,944.00	
Karnataka	HUSK SALES	1,16,99,739.00	
Karnataka	MISC INCOME	11,90,920.00	
Karnataka	Stale Cheque		
Karnataka	Reversal	60,794.00	
Karnataka	Air India Limited -	13,417.00	

	Incentive Received	
Karnataka	MTNL Deposit receipt	5,896.00
Karnataka	Guest House Stay Charges	4,500.00
Karnataka	Dividend Received from Joonktoll Tes industries	2,695.00
Karnataka	Stay Charges of Mr.SKK Received from Tata Reality	15,342.00
Karnataka	Incentive received from HDFC Bank	5,63,500.00
Karnataka	Credit received from Tata Tea - Kolkatta	2,64,044.40
Karnataka	Others - R/Off	16.02
Karnataka	Received d from DR V.BANDHU- PASCHIM VIHAR,DE	840.00
Karnataka	Customers Credit Balance - old balance written off	5,029.27
Karnataka	OTHER MIS RECEIPTS (UPS JET EXPRESS)	4,494.79
Karnataka	Old Credit Balances -	12,45,437.33

	Write Back		
	Old Customer		
	Down		
	Payments -		
Karnataka	Write Back	2,60,145.60	
	Old Employee	"	
	Balances -		
Karnataka	Write Back	33,204.00	
	Prov for		
	Doubtful		
	Advances		
Karnataka	Reversed	2,21,311.00	
	Debit Note on		
	Starbucks Inc		
	towards under		
	absorption of		
Karnataka	OH	22,56,480.00	
	Stacking		
Karnataka	charges	5,106.20	
	Rounding Off &		
Karnataka	Others	626.77	
	Sale of Coffee		
Karnataka	Plants	10,200.00	
	Sale of Seed		
Karnataka	Coffee	46,631.70	
	Forfeiture of		
Karnataka	EMD	3,43,000.00	
	Clinic retail		
Karnataka	sales	3,53,384.85	
	Elephant		
	damage		
Karnataka	compensation	58,600.00	
	Insurance claim		
	on damaged		
Karnataka	coffee	5,46,629.00	
Karnataka	Other		
	miscellaneous	1,53,561.23	2,07,84,38

	income		6.16
Kerala	Cattle fee recovery from employee	20,135.00	
Kerala	Licence fee recovered BAZZARMAN/ RATION SHOP		
Kerala	KEEPER ETC	1,416.00	21,551.00
Tamilnadu	Dare product sale and School van fee recovery	4,80,368.00	
Tamilnadu	Income from medical treatment to Non company patient	10,42,299.00	
Tamilnadu	Cattle fee recovery from employee	1,81,215.00	
Tamilnadu	Licence fee recovered BAZZARMAN/ RATION SHOP		
Tamilnadu	KEEPER ETC	12,742.00	
Tamilnadu	Orhodox tea subsidy provision	7,55,025.00	
Tamilnadu	Port Services	24,95,810.00	
Tamilnadu	Duty Drawback	14,33,750.00	
Tamilnadu	TED Difference	4,02,090.00	
Tamilnadu	Others		

		1,620.00	
Tamilnadu	Duty Drawback	9,23,208.00	
Tamilnadu	Pot Services		
Tamilnadu	Refund	2,53,650.00	
Tamilnadu	Capitalized Duties trfd to Income	8,13,591.00	87,95,368.00
Telangana	BROKERAGE COMMISSION - CSAV GROUP	972.00	
Telangana	REVERSAL OF OSL	18,000.00	
Telangana	RECOVERY-RE- PROC CHG-4 MT OLD STCK FRM WOODS BERRY	80,000.00	
Telangana	FREIGHT CLEARING DIFFERENCE AS ON 31.12.2013	3,17,617.00	
Telangana	SEC DPST OF OLS CUSTOMERS ABSORBED	1,918.00	
Telangana	SEC DPST OF OLS CUSTOMERS ABSORBED	54,214.00	
Telangana	SEC DPST OF OLS CUSTOMERS ABSORBED	3,065.00	4,75,786.00
	Total		0

	Miscellaneous Income		3,00,77,09 1.16
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- The state wise break up of income from sale of Fixed assets is as follows:-

State	P/L on sale FA
Karnataka	10,052.30
Tamil Nadu	11,54,787.87
Telengana	-3,69,407.56
Grand Total	7,95,432.61

It can be ascertained from the above table, except for cattle recovery fee and licence fee for shops, both of which are not liable to tax, all the transactions do not pertain to Kerala. Hence the entire amount shown is tax exigible to tax in Kerala.

SI No. 20 Kunnath Paper Mills Pvt. Ltd. 32090221945 /

2013-14

The Accountant General has pointed out that M/s. Kunnath Paper Mills for the year 2013-14 disclosed sales turnover of Rs. 35,16,73,567/- in the Audit Report, whereas Rs.15,34,57,467/- in the Annual Return. This resulted in sales variation of Rs.19,82,16,103/-. The Deputy Commissioner, Special Circle, Palakkad has reported that pre-assessment notice under section 25(1) issued to the dealer and they

replied the variation is on account of amalgamation of another company M/s. K.T Francis Paper & Boards as per the direction of the Hon'ble High Court. The dealer produced copy of Judgment, Annual Return of K.T. Francis Paper & Board, copy of RG-1 Register and explained that the turnover Rs. 19,82,16,103/- is related to the another company M/s. KT Francis Paper and Boards (P) Ltd. which had been amalgamated to their company pursuant to the order of Hon'ble High Court of Kerala. Accordingly the total turnover for the year as per the financial statement as on 31-03-2014 is the sales turnover of both their company and KT Francis Paper and Board variation is reconciled as under:

	Total turnover as per annual return		15,34,57,464.00
Less	Excise duty and Cess		<u>65,50,765.00</u>
		Total	14,69,06,699.00
Less	Interstate sale of machinery		<u>4,55,000.00</u>
		Total	14,64,51,699.00
Add	Sales turnover of KT Francis & Boards (Excluding Excise Duty)		15,03,86,822.00
Add	Interstate Stock Transfer (out) of KT Francis Paper & Boards		<u>5,48,35,046.00</u>
		Total	<u>35,16,73,567.00</u>

The Assessing Authority verified the documents produced by the dealer and found that the company M/s. KT Francis Papers & Boards (P) Ltd, was amalgamated to the Kunnath

Paper Mills during 2013-14 pursuant to the order of the Hon'ble High Court of Kerala in Co. pet No: 27/2013 c/w MCA 4&5/2013 dated 09-01-2014 and K.T Francis Paper & Boards had disclosed total sales of Rs. 15,97,26,801/- and interstate stock transfer out for Rs.5,48,35,046/- in their annual return and paid tax. As such there is no variation in the sales turnover as pointed out in the Audit Para.

SI. No. 21 Paragon Steels (P) Ltd. 32090250802 / 2013-14

The Accountant General has pointed out that there was a variation of sales turnover of about 5 crore between the sales turnover disclosed in annual return 2013-14 and the short levy worked out to 0.25 crore with the interest. The Deputy Commissioner, Special Circle, Palakkad has reported that the variation is on account of inclusion of tax (VAT & CST) collected Rs. 4,85,06,694/- and debit note for Rs. 7,57,418/- in the sales turnover of the Audit Report. A reconciliation statement had been attached to the Audit Statement, by the Auditor as under.

Total sales as per the annual return	:Rs.	97,49,49,109.00
1) Add KVAT collected	:Rs.	4,85,06,694.00
2) Add CST Collected	:Rs.	97,831.00
3) Add debit note	:Rs.	7,57,418.00
Total	:Rs.	1,02,43,11,052.00
Less fixed asset sales value	:Rs.	14,43,413.00
Turnover as per 13, 13A	:Rs.	1,02,28,67,639.00

This has been verified and found correct. Hence there is no variation as alleged in the Audit Para and therefore the defect may be waived.

While completing the final assessment for the year 2013-14 as per order No.32097250802/2013-14 dated 26-02-2018, the Assessing Authority noticed that, as per the Profit & Loss Account, the dealer had sustained Gross Loss. Since no explanation was available regarding the gross loss it was proposed to estimate the sales turnover by adding 4% GP to the cost of goods for sale. In the reply filed, the dealer had explained the reasons for the fall in the sales turnover. However, the dealer had availed IPT credit of Rs.3,53,52,999/- on the local purchase turnover. In the event of sales of goods at a lower price than the cost price, the dealer is not eligible for the proportionate IPT credit as stipulated under section 11 of the act. As per the Profit & Loss Account the dealer had sustained loss about 4.45% to the cost of goods sold. Hence the proportionate IPT claim Rs. 15,73,208/- being 4.45% of Rs.3,53,52,999/-, is disallowed. The proposal is modified to the extent. The disputed amount is under RRC to the district Collector RR/2018/4588/9 dated 25-04-2018 and Manual RRC sent to the other state RRC 64/18-19 dated 18-12-2018.

**23. M/s.KVN Impex(32110288424/2013-14)**

The difference between annual return filed and audited statement is Rs. 40,28,03,036/-.

The dealer had filed consolidated trading and profit and loss account of Kerala State and Tamil Nadu State(Branch) during the year 2013-14. The turnover reported as 'others" is the total sales Turnover of Tamil Nadu (Branch) amounting to Rs. 136,01,23,819.00. The dealer has produced the annual return of Tamil Nadu Branch and on verification it is found true that Rs. 136,01,23,819.00 is the total sales Turnover of Tamil Nadu (Branch) for the year 2013-14. The dealer has

forgot to include the Interstate Stock Transfer(OUT) amounting to Rs.101,48,10,785.00 in the 13,13A Audit Report filed. As per the annual return, the interstate stock transfer (OUT) was Rs. 95,73,20,785/- whereas in books of accounts it was Rs.1,01,48,10,785/-. The dealer has omitted to include the interstate stock transfer (OUT) of Rs. 5,74,90,000/- in the monthly return of August 2013 whereas the same was included in the uploaded data. At the time of filing of the audited statements, as per section 42(2)-of the KVAT Act 2003, the dealer has requested to revise the return for the month of August 2013 to rectify this mistake, and the monthly return for August 2013 was subsequently revised also. But the dealer did not revise the annual return thereafter and hence the interstate stock transfer (OUT) was Rs. 95,73,20,785/- . Verification of checkpost data also revealed that there was an interstate stock transfer (OUT) of Rs. 1,01,48,10,785/- during the year. The interstate stock transfer (OUT) is supported with corresponding 'F' Forms also. Hence the difference between Annual Return and Audited Report is due to the non-inclusion of Inter State Stock Transfer(OUT) in the 13, 13A Audit Report amounting to Rs.1,01,48,10,785/- and the inclusion of the total sales Turnover of TamilNadu (Branch) amounting to Rs. 136,01,23,819.00 as "others". Hence no escapement of sales turnover on account of that difference between Audited Statement and Annual Return.

But a notice was issued to the dealer on analysing the trade result for the year 2013-14. In response to the said notice, a reply was given wherein it is stated that, they have shown the consolidated figure of Kerala and Tamilnadu Branch in the audited statements for 2013-14. Verification of the books of accounts revealed the trade results of Kerala and Tamil Nadu for the year as follows.

Opening stock

Tamilnadu	- Rs. 1,74,07,879.00
Kerala	- Rs. 38,93,80,264.00
Total	- Rs. 40,67,88,143.00

Purchase turnover

	Chemicals	Purchasing materials
Local purchase	Nil	Rs.22,48,28,586.00
Interstate purchase	Rs. 1,62,173.00	Rs. 46,50,372.00
Import	Rs.69,88,65,353.0 0	Rs.2,13,15,93,751. 00
Interstate stock transfer (IN)	Rs. 62,32,500.0	Rs. 16,20,000.00
Total	Rs.70,52,60,026.0 0	Rs.2,36,26,92,709. 00
Grand total	Rs. 3,06,79,52,735.00	

## Sales Turnover

	Chemicals	Packing Materials
Interstate sales	Rs. 4,35,97,303.00	Rs. 8,55,55,027.00
Interstate stock transfer (OUT)	Rs. 11,49,19,125.00	Rs. 89,98,91,660.00
Local sales	Rs. 41,29,76,764.00	Rs. 1,09,11,42,783.00

Total	Rs.	Rs.
57,14,93,192.00		2,07,65,89,470.00
Grand Total	Rs.	2,64,80,82,662.00

Closing stock

Kerala	- Rs. 56,62,86,792.00
Tamilnadu	- Rs. 4,71,59,740.00
Total	- Rs. 61,34,46,532.00

The sales turnover is Kerala including the Interstate stock transfer (OUT) is Rs. 2,64,80,82,662.00

Considering the above figure the cost of goods sold should be as follows:

1. Opening stock - Rs. 38,93,80,264.00
2. Purchase including  
Interstate stock transfer (IN)- Rs. 3,06,79,52,735.00

Total	- Rs. 3,45,73,32,999.00
Less: Closing stock	- Rs. 56,62,86,792.00

Cost of goods meant for sale	- Rs. 2,89,10,46,207.00
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Less: Sales including interstate Stock transfer OUT	- Rs. 2,64,82,42,298.00
Difference	- Rs. 24,29,63,545.00

This turnover was assessed at the rate of 5% demanding tax Rs.1,21,48,180/- and interest Rs. 26,72,600/- at the rate of 1% per month vide Order No. 32110288424/2013-14 dated 27-01-2016. The amount was advised for recovery vide RRC No. 119/2015-16. The dealer has paid Rs. 44,44,350/- being 30 % of the demand. The matter has been kept in abeyance till the disposal of appeal vide WP (C) No. 14522 of 2016 dated 08-04-2016.

The appellate authority disposed the appeal on the finding that

if the average purchase value is adopted for the stock transferred to the branch outside the state, no anomaly will be reflected and hence there is no sales suppression. The finding of the appellate authority is not correct. The assessment was based upon the turnover declared as per the audited statements. The turnover declared as per the audited statement is the actual value of the goods transferred and not the notional value. Hence second appeal is preferred by the state. The appeal is admitted and the number assigned to the Tribunal Appeal is 270/2016. The appeal is still pending with the Hon. Tribunal.

<b>Sl.No.30.M/s.</b>	<b>Reliance</b>	<b>Digital</b>	<b>Retail</b>	<b>Ltd</b>	<b>(TIN</b>
<b>32070465808/13-14</b>					

As per the audit objection the assessing authority issued notices under section 25(1) and 67(1) of the KVAT Act to the dealer on 25-08-2015 proposing to levy tax, interest, penal interest and penalty amounting to Rs.3,28,81,015/-and Rs.3,46,11,596/- for the variation detected in the turnover amounting to Rs. 11,95,50,331/-.On receipt of the notices, the assessee furnished reply stating that pursuant to the scheme of arrangement approved by the Hon'ble High Court of Bombay as amended by the order dated 13-06-2013, M/s. Reliance Digital Retail Ltd. has transferred the stock pursuant to the sale of business as a whole to Reliance Fresh Ltd. and the transfer values has been shown as "others" in Form 13A .Since the online version of Form 13A does not permit the Auditors to make remark on the item "others".

Later both the proposals under section 25(1) and 67(1) were confirmed in 11-3-2017. Against this the dealer filed a Writ Petition W.P(C).18826/17 dtd 22-7-17 before the Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala quashed both the orders and viewed that the differential

	<p>amount of Rs.11,93,50,331/- shown in column V 6 of Form 13A represent the transfer pursuant to the business transfer agreement of the stock from the petitioner company ie. M/s. Reliance Digital Retail Ltd to M/s. Reliance Fresh Ltd and hence this turnover does not represent the taxable turnover in the hands of the petitioner company. Because as a scheme of arrangement and amalgamation approved by the Hon'ble High Court of Bombay the business of the petitioner company was transferred to another company by name M/S. Reliance Fresh Ltd.</p> <p>The transferee company, M/s. Reliance Fresh Ltd is an assessee on the rolls of the Assistant Commissioner (A) Special Circle III Ernakulam(TIN 32070482695). The Assistant Commissioner (A) Special Circle III Ernakulam has stated that M/s. Reliance Retail Ltd(formerly Reliance Fresh Ltd)has taken out the entire stock of materials to the tune of Rs.34,44,37,732.22 (which includes the stock of Rs.11,93,50,231.37 related to M/S. Reliance Digital Retail Ltd) under the provisions of Rule 10(f) of KVAT Rules 2005.</p>
(b) Recovery of overpayment pointed out by audit	NA
(c) Recovery of under assessment, short levy or other dues	NA
(d) Modification in the schemes and programmes including financing pattern	NA

(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	NA
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## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment
	(c)	Paragraph No.	Turnover exempted without mentioning the nature of exemption 2.4.7.6 (3)
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>As per Rule 10 of the KVAT Rules, 2005, the allowable deductions from local sale of taxable goods are (1) sale of goods to units in Special Economic Zone (SEZ) (2) sale to his agent or principal (3) sale of medicines purchased on invoices in Form 8H.</p> <p>Audit found that in case of 25 out of 42 dealers whose returns scrutinised in nine assessment circles, the assessees availed exemption of turnover of Rs. 671.45 crore from their local sales turnover without mentioning the nature of exemption. Since no exemption is allowable from the local sales of a dealer under the Act other than those mentioned above, the exemption availed was not in order. However, the assessing authority accepted the returns without assessing the irregular exemptions. This</p>

resulted in short levy of tax including interest under Section 31(5) and penalty under Section 67 of Rs. 234.89 crore (Appendix VI). The Tax district-wise deviation from provisions of the Act/Rules.

Audit observed that amongst the defaulters, M/s Indian Oil Corporation of Special Circle II Ernakulam was the biggest defaulter with tax effect of Rs. 148.64 crore. The nature of business dealt by these dealers are indicated below:

- Four in Automobiles with tax effect of Rs. 38.79 crore.
- Three in Hill produce with tax effect of Rs. 15.02 crore.
- Three in Fast Moving Consumer Goods with tax effect of Rs. 11.69 crore.
- Fifteen in multiple commodities with tax effect of Rs. 169.39 crore.

Audit noticed that M/s. Indian Oil Corporation, M/s Concorde Motors India Ltd of Special Circle II Ernakulam, M/s Hindustan Unilever Limited of Special Circle Mattancherry and National Handloom Development Corporation Ltd. of CTO, II Circle, Kannur repeated the default for three years.

IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA

64 153

V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

154  
REMEDIAL ACTION TAKEN

(a)	<p>Improvement in system and procedures, including internal controls.</p>	<p><u>Sl.No.1 . M/s. Pest Control (India) Pvt Ltd.( TIN 320702 87182/2012-13 )</u></p> <p>Considering the audit objection, the assessment has been completed as per this office proceedings No.320702 87182/2012-13 dated 20.11.2015 creating additional demand of Rs. 87,75,552/- (VAT) and Rs.28,08,178/- (Interest) respectively. The balance amount is under RR.</p> <p><u>Sl.No. 2 M/s. G.H Associates TIN 32071594972/11-12</u></p> <p>The objection raised by the Accountant General is that the assessee has claimed exemption for an amount of Rs. 2,21,83,267.12 without supporting records.</p> <p>On verification of books of accounts and supporting statutory form produced by the assessee, it was found that the turnover in question consists of sale in course of import (High sea sales) for Rs. 2,15,85,199/-, Sales in transit (E1) for Rs. 5,73,684.72/- and sales turnover to SEZ for Rs. 24,383.40 totalling to Rs. 2,21,83,267.12. The whole turnover in question is supported by the relevant statutory forms and has proved the exempted turnover.</p> <p>That being so the defect pointed out by the Accountant General is not sustainable.</p>
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Sl. No. 7 HCL Infosystems Limited (32070312742/11-12)

Audit found that M/s. HCL Infosystems Limited, a dealer in the rolls of the Asst. Commissioner, Special Circle II, Ernakulam, for the year 2011-12, has claimed exemption for local sales of an amount of Rs.0.62 Crores without mentioning nature of exemption leading to a short levy of Rs. 0.26 Crores including tax, interest and penalty.

Based on the audit objection and other irregularities, assessment for the year 2011-12 has been completed vide Order No. 32070312742/2011-12 dtd. 18.03.2019 creating additional demand as below:

Tax due : Rs. 16,41,665

Interest : Rs. 13,46,165

Total : Rs. 29,87,830

Sl. No. 8 HCL Infosystems Limited (32070312742/12-13)

Audit found that M/s. HCL Infosystems Limited, a dealer in the rolls of the Asst. Commissioner, Special Circle II, Ernakulam, for the year 2012-13, has claimed exemption for local sales of an amount of Rs.0.92 Crores without mentioning nature of exemption leading to a short levy of Rs. 0.41 Crores including tax, interest and penalty.

Assessment for the year 2012-13 has been completed vide Order No. 32070312742/2012-13 dtd. 20.06.2015, creating additional demand as follows.

Tax due : Rs. 7,22,624

Interest	:	Rs. 1,95,109
Total	:	Rs. 9,17,733

Aggrieved by this order of assessment, the assessee preferred appeal before DC (Appeals), Ernakulam and remitted Rs. 2,75,320/- (i.e., 30% of the demand) for getting stay for the realization of the balance demand. DC (Appeals), Ernakulam disposed the appeal in favour of the assessee vide Order No. KVATA-1596/2015 dtd. 31.10.2018. As per the order of the appellate authority, the audit objection raised by the Accountant General is not sustainable.

SL. No. 9 & 10 M/s. Concorde Motors (India) Ltd

2011-12 & 2012-13 TIN: 32070314002

On verification of the pending audit reports, the audit enquiry referred to above is noticed. The audit query was to assess Rs.3,19,04,507/- on the ground that the assessee has not produced any documents to prove this claim of exemption. A notice u/s 25(1) of the KVAT Act was issued to the dealer for the years 2011-12 to 2013-14.

On receipt of the notice, the dealer filed reply on 29.10.2015. According to the dealer the exemption claimed by them towards the sales turnover of Motor Vehicles both local and CSD sales consists of only trade discounts on sales of vehicles shown separately in the sales invoice. Verification of the sales ledger and invoices produced with respect to the Kvatis data, it is

seen that the assessee has shown the discount granted separately in the invoice and the tax was collected on the balance amount. The sales statement uploaded in the Kvatis contains the net amount and Vat collected in the invoice. In the ledger the assessee has shown the unit price before concession, concession amount and Vat assessable amount. The amount shown in ledger, invoices and uploaded sales list, tallied with the figure in the return. There fore exemption claimed towards the sales turnover of motor vehicles is the amount allowed them as discount and Vat collected only for the balance amount is correct and accepted.

As per records the above claim of exemption is found in order and there is no suppression of turnover and no loss of revenue in this case. Considering the above facts, further action on the audit enquiry may be dropped.

SL. No. 11 M/s. Concorde Motors

(2013-14) TIN - 32070314002

Based on the defects pointed out in the audit objection A notice U/s. 25(1) of the KVAT Act was issued against M/s. Concorde Motors (I) Ltd., Ernakulam vide No. 32070314002/13-14 dated 05.10.2015. The proposal was to assess Rs. 2,17,80,504/- on the ground that the assessee has not produced any documents to prove this claim of exemption. On receipt of this notice the assessee filed a reply on 29.10.2015. This case is that exemption was claimed on the sale of motor vehicles both local and

CSD sales and the turnover of works contract. The split up of which is as shown below:

1. Discount received on vehicles sales: Rs. 1,93,94,312.79
2. Motor vehicle CSD sales : Rs. 1,30,536.14
3. Works contract sales : Rs. 22,55,656.00

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Total : Rs. 2,17,80,504.93  
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According to them the exemption claimed by them towards the sales turnover of Motor Vehicles both local and CSD sales consists of only trade discounts on sales of vehicles shown separately in the sales invoice. The exemption claimed on the turnover works contract is towards labour portion calculated under Rule 102(b) of the KVAT Rules. Exception claimed amount Rs. 22,55,656.00 is the 25% of the total works contract receipt which is admissible under Rule 10(2)(b). The claim of exemption related to the discount received on vehicle sales and labour portion in the works contract receipt and the turnover of interstate sale. As per records the above claim of exemption is found in order and there is no suppression of turnover and no loss of revenue in this case. Considering the above facts, further action on the audit enquiry may be dropped.

Sl. No. 12 Associated Chemicals

(TIN 32070302223/2012-13)

The audit objection in this case is that the dealer Associated Chemicals, claimed exemption for the sales

turnover of Rs. 12,09,430/- in the annual return for the year 2012-13, without filing any supporting documents.

Pre-assessment notice was issued by the assessing authority to the dealer based on this defect and also for certain other irregularities. On receipt of the notice, the dealer filed reply with all documentary evidences. Claim of exemption was on the sales effected to Special Economic Zone. The dealer produced Form 43 for the entire amount and the same has been accepted. In the above circumstances, the above audit objection may be dropped.

Sl. No. 13 - Lulu International Shopping Mall (P) Ltd  
32070393922/ 2013-14

The audit objections mentioned though the above para is that during the year 2013-14, the dealer M/s.Lulu International Shopping Mall (P) Ltd. availed exemption on the local sales turnover of taxable goods, to the tune of Rs.1,80,98,415/- without mentioning the nature of exemption.

On the basis of the audit objection, pre-assessment notice u/s 25(1) of the KVAT Act was issued to the dealer. The dealer produced Form 25F issued by M/s.Silver Tunes for Rs.41,59,728.75 and M/s.Swiss Time Agencies for Rs.1,39,38,969.39 to prove the exemption availed for Rs.1,80,98,415/- .

On verification of the details furnished by the dealer, it is ascertained that the exemption availed as

per the return is correct and is in order.

**Sl. No. 14 M/s. Aswin Paper Company**

**TIN: 32071774972/2013-14**

Assessment completed dated 08.07.2019 based on audit query and some other defects by creating additional demand of Rs. 253574.00 (Tax Rs. 154618 & interest Rs. 98956). The dealer opted Amnesty Scheme 2019 and paid Rs. 154618.00. As the case is closed the audit objection may be dropped.

**Sl. no 15 M/s. Popular Vehicles and Services Ltd**

**32070401234/2011-12**

The audit objection is that M/s Popular Vehicles & Services Ltd, an assessee on the rolls of the Asst. Commissioner, Special Circle III, Ernakulam has claimed exemption of Rs 35.77 Crore for the year 2011-12 without mentioning the nature of exemption.

The assessing authority has completed the assessment vide order no. 3207041234/11-12 dated 14-07-2016 by creating an additional demand of Rs. 4,51,53,465.00 as tax and Rs. 2,34,79,802.00 as interest.

This order was modified on 25-09-2017 as per the directions contained in KVATA 3152/16 dated 30-06-2017 of the Deputy Commissioner(A) with NIL demand.

**Sl. no 16 M/s. Popular Vehicles and Services Ltd**

**32070401234/2012-13**

The audit objection is that M/s Popular Vehicles & Services Ltd, an assessee on the rolls of the Asst. Commissioner, Special Circle III, Ernakulam has claimed exemption of Rs 37.71 Crore for the year 2012-13 without mentioning the nature of exemption.

The assessing authority has completed the assessment vide order no. 3207041234/12-13 dated 14-07-2016 by creating an additional demand of Rs.5,09,04,141.00 as tax and Rs. 2,03,61,656.00 as interest.

This order was modified as per the directions contained in KVATA 3153/16 dated 30-06-2017 of the Deputy Commissioner(A) with NIL demand.

Sl.No. 21 M/s. V. Star Creations Pvt Ltd  
(32070438652/13-14)

Considering the Audit objection the the assessee has claimed an exemption of Rs. 19,19,599/- for the year 2013-14 in the annual return, the assessment records were verified and it was found that the dealer has claimed an exemption of Rs. 8,85,58,379/- including the amount pointed out by the Audit. Hence the assessment for the year 2013-14 has been re-opened and completed vide order No. 32070438652/13-14 dtd 22.05.17 creating an additional demand of Rs. 83,14,276/-

Sl. No.23. M/s. Francis Trading Company -  
32050859984/2011-12

The assessment in respect of the dealer for the year 2011-12 was completed vide order No.

32050859984/2011-12 dated 27/09/2016 with NIL demand.

The exemption claimed on Local Sales amounting to Rs.6,51,29,368/- was actually sales to exporters for the purpose of Export against Form 'H'. The dealer has also submitted Form 'H' along with corresponding Bills of Lading. Verified the documents furnished by the dealer and convinced that the exemption claimed on turnover Rs. 6,51,29,368/- is deemed to be sale in the course of export Under Section 5(3) of Central Sales Tax Act. Hence the assessment for the year 2011-12 is recorded as a case of "NIL" demand.

**Sl. No. 24 M/s. JMJ Traders - 32051107585/2013-14**

The assessment in respect of the dealer for the year 2013-14 was completed vide order No. 32051107585/2013-14 dated 27/07/2020 with tax and interest Rs.34,88,981/- and Rs.26,51,625/- respectively. The dealer opted Amnesty Scheme and fully settled the dues.

**Sl. No 25 SML ISUZU Motors 32010181345/2011-12**

The objection pointed out by the audit was that the dealer claimed exemption of Rs. 5.69 crore without mentioning the nature of exemption.

The objection raised by the Accountant General is verified with the annual return and the audit-

ed report and found that the exemption claimed is for stock transfer outward. It was assessed while completing the assessment for the year 2011-12 vide order no. 32010181345/11-12 CST dated 20-09-2014 by creating additional demand of Rs. 71,84,788/- and interest. Against the order, the dealer filed appeal. As per the appellate order in KVATA 314/14 dated 10-03-2015, the Deputy Commissioner(Appeals) directed the assessing authority to verify the documents and allow the claim. The dealer had submitted relevant Forms before the assessing authority.

Sl.No. 31 Ruchi World Wide Ltd, 32090600992 /  
2011-12

The Accountant General has pointed out that M/s. Ruchi World Wide Pvt Ltd for the year 2011-12 exemption claimed of Rs.32,77,92,863.39 without mentioning the nature.

The Deputy Commissioner, Special Circle, Palakkad has reported that notice under section 25(1) of the KVAT Act is issued to the assessee based on the Audit objection. On receipt of the notice, the assessee filed reply stating that disallowance of exemption claimed Rs.32,77,92,863.39 was related to the export sales and produced Export documents Direct Export for Rs.3,25,33,131.39 and Indirect export for Rs.29,52,59,732/-. The then assessing authority had verified the documents produced in support of the claim and found genuine. Hence the proposal is dropped and the assessment was completed on 20-01-2013, the para is

not sustainable. So, the para may be dropped.

32. M/s. Wipro Enterprises Limited TIN 32070449406 (formerly TIN 32110227707 registered with CTO Sepcial Cirlcle I,Kozhikode).

In the audit report 2015 by the Audit Party of the Account General, Kerala pointed out the defects that for the assessment year 2013-14 details of turnover of goods exempted without mentioning the nature .

Alleged amount of Rs.3.87 crores is the turnover of the goods transferred from M/s. Wipro Ltd after the demerging of M/s Wipro limited to Wipro Enterprises Ltd .Audited statement in 13A filed by the firm proved that above turnover stock transfer was receipt of goods. The trading accounts filed by the firm also showed that impugned amount is its opening stock. So there is no any short levy as alleged in the audit report .Hence the proposal in this case may be dropped.

Sl. No. 34 Mathewsons Food Specialities Private Limited (32071354626/13-14)

Audit found that M/s. Mathewsons Food Specialities Private Limited, a dealer in the rolls of the State Tax Officer, Second Circle, Kalamassery,for the year 2013-14, has claimed exemption for local sales of an amount of Rs. 2.53 Crores without mentioning nature of exemption leading to a short levy of Rs. 1.15 Crores

		including tax, interest and penalty.
		<p>The assessing authority has informed that the dealer produced entire documents to prove the claim of exemption. On verification of the documents, the assessing authority has found that the sales effected and exemption claimed related to Deemed Exports. The assessing authority also reported that the dealer produced all supporting documents such as H Forms, Bill of Lading &amp; Invoice etc for providing the claim of Exports and he verified and allowed the claim. Hence the objection raised by the Accountant General is not sustainable.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	



സിനി ജെ. സുകുർ  
അബ്ദീ, ആസൂത്ര സെക്രട്ടറി  
നികുതി പബ്ലിക്  
ഗവൺമെന്റ് സെക്രട്ടറിയേറ്റ്  
അംഗീപാസിഫിക്

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment Irregular exemption of sales to units situated in SEZ
	(c)	Paragraph No.	2.4.7.6 (4)
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>As per Section 6(7)(b) of the KVAT Act, 2003, sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any SEZ in the State for setting up the unit or use in the manufacture of other goods shall, subject to such conditions or restrictions, as may be prescribed, shall be exempted from tax.</p> <p>Audit found that eight out of 14 dealers whose returns were scrutinised in four assessment circles, under Deputy Commissioner, Ernakulam, the assessees availed exemption of turnover of Rs. 108.97 crore treating it as the sales to units situated in SEZ. Audit found that the goods sold were surgical equipments, furniture, computers, electronic goods, petroleum, furnace oil, etc. Since these goods do not fall under the exempted category of goods as mentioned in Section 6(7)</p>

		<p>(b), the exemption availed was irregular. Lack of scrutiny by assessing officers even though the data was available in KVATIS resulted in short levy of tax including interest and penalty works out to Rs. 43.80 crore (Appendix VII).</p> <p>Audit observed that amongst the defaulters, M/s Bharat Petroleum Corporation Ltd. of Special Circle II, Ernakulam was the biggest defaulter with tax effect of Rs. 15.60 crore.</p> <p>Audit noticed that M/s Bharat Petroleum Corporation Ltd and M/s. Blue Star Limited of Special Circle II, Ernakulam repeated the default for three years.</p>
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
V	(a)	Does the Department agree with the Audit conclusions?
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary

## REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.	<p><u>Sl. no.7. M/s. Primus Gloves Pvt Limited</u>  <u>32070429955/2012-13</u></p> <p>Audit has observed that M/s. Primus Gloves Pvt. Limited, an assessee on the rolls of the Asst. Commissioner, Special Circle III, Ernakulam, for the year 2012-13, claimed exemption of Rs. 4.86 Crore for local sales on surgical equipments and bandages, being sales to units situated in SEZ. Since these goods do not fall under the exempted category of goods as mentioned in Section 6(7)(b), the exemption availed was irregular.</p> <p>Assessing authority has reported that assessment has been completed on 15-07-2016 creating an additional demand of Rs.211319/- with interest. Demand is under RR.</p> <p><u>Sl. no.8 SFO Technologies Digital Pvt. Ltd</u>  <u>(32070415803/2011-12)</u></p> <p>The final assessment in respect of the dealer was completed vide this office proceedings no. 32070415803/2011-12 dated 23-05-2019 by incorporating the defects pointed out in the audit report that the irregular exemption by way of sales to SEZ claimed in the returns. The total turnover of Rs.1,37,42,64,061.00 (without allowing the exemption claimed by the dealer for Rs. 20,38,10,782/- as sales to SEZ which is not proved with requisite forms.</p>
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	<p>Tax due @ 12.5% - Rs. 4,11,01,348/-      Cess due @ 1% - Rs. 4,11,013/-      Interest - Rs. 3,57,00,631/-      The dealer filed WPC-19399/2019 before the Hon'ble High Court of Kerala. The case is still pending before High Court.</p> <p><b><u>Sl. no.9 SFO Technologies Digital Pvt. Ltd (32070415803/2012-13)</u></b></p> <p>The assessment in respect of M/s. SFO Technologies Digital (P) Ltd for the year 2012-13 has been completed vide order No. 32070415803/2012-13 dated 01-07-2019 by incorporating the defects pointed out in the audit report that the irregular exemption by way of sales to SEZ claimed in the returns amounted to Rs. 3.26 crores. Additional demand created of Rs. 85,67,590/-. Interest calculated is of Rs. 64,25,693/-. The dealer filed WPC-24212/2019 before the Hon'ble High Court of Kerala. The case is still pending before High Court.</p> <p><b><u>Sl.No-10 -Safe care Rubber Product Pvt Ltd. 2011-12</u></b></p> <p>On the basis of the Audit objection verified the entire assessment records and it is found that the sale to CSEZ unit for an amount of Rs. 6,35,94,476/- was made against Form No.43 and the buyer M/s. Safe Shield India Rubber Products has also given Form-H . Hence the same has exempted .</p> <p>Hence the objection raised by the C&amp;AG is not</p>
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sustainable .Hence may be dropped.

**Sl. No. 11&12 M/S.Leela Soft Pvt Ltd**

**(TIN32070471906/11-12)**

The annual return in respect of M/s Leela Soft Pvt,Ploy No 5 Ltd, Info Park Kusumagiri, Kakkanad was scrutinised by the Accountant General and they observed the following defect.

The dealer effected sales of electronics goods, furniture and lubricants etc not coming under the purview of Section 6(7) (b) of the KVAT Act 2003. The turnover of such goods is mentioned as Rs 1,53,36,374/- @ 12.5%and Rs 1,79,39,614/- @ 4% .

On the basis of the audit objection assessing authority issued a notice. The dealer had filed reply with some supporting documents to prove the actual position. The objection raised by the Accountant General was cross verified with the reply filed by the dealer. On verification it is revealed that the objection of Accountant General is not sustainable for the following reasons.

The assessee is a company engaged in construction and leasing of commercial spaces in the Special Economic Zone Info Park at Kakkanad. Being a unit in the Special Economic Zone, company is eligible for purchase of goods from local registered dealer by using form 43.The dealer had effected purchase of goods and used the same in construction.

The company filed monthly return and conceded Sales turnover of different items .The sales turnover conceded is not correct. Actually it is the purchase of material which is shown in the return as sold and its turnover included in the return as sales turnover. Actually there is

no sales turnover because the company is not engaged in sales transaction but using the material for the construction and the infrastructure which is given to various developers or co-developers in the Special Economic Zone on lease.

Similar kind of mistake had crept in for the years 2012-13, 2013-14, and 2014-15 and the assessing authority permitted to revise the return based on the submission of the company. Thus the sales turnover conceded in the return such as electronics goods, furniture and lubricants etc are coming under the purview of section 6(7)(b) of KVAT Act. The usage in section 6(7)(b) of building material industrial consumable etc include electronics goods, furniture and lubricants etc. The company is engaged in construction of building and its infrastructure. The building material referred to in section 6(7)(b) shall include basic building material and other goods essential, required to make the building effectively functional and able of being used by the units, depending on the activity carried out by the said unit. The ancillary work of building construction such as interior works, electrical works, sanitary works, insulation work etc are forming part of building construction, which are required building material. Thus electronics goods, furniture and lubricants etc are coming under the category of building material, industrial Inputs etc.

As per section 6(7) (b) the above item can be purchased by using form 43 which is permissible and legally valid. Hence the objection raised by Accountant General is not sustainable and hence may be dropped.

	<p><u>SI.No.13-M/s. M/s. Outsource Partners Limited.</u>  <u>2013-14/ TIN No. 32071382201</u></p> <p>The assessee is engaged in providing Information technology enabled service, Accounting service of overseas outsourced work. The assessee is no way deal with any trading activities in the exclusive special economic zone by way of purchase and sales, except for purchase as goods capitalised in the books of accounts. During the year 2013-14 , the assessee has filed annual returns furnishing total turnover of Rs. 2,62,98,453.52 and taxable turnover of Rs. 248756.00/- with a output tax demand of rs. 1243/- ( sale of used motor vehicles ). The assessing authority on verifying the annual returns filed for the year 2013-14 noticed irregular exemption claimed on sale of health drinks for Rs. 1783090/- . The assessee also claimed works contract turnover of Rs. 2,29,22,571/- . The assessing authority has completed the assessment under sec 25(1)of the KVAT Act 2003</p> <p>The assessment was completed fixing a escaped Turnover of Rs. 6,28,74,746.52 creating a additional tax demand of Rs. 72,95,579.50 . Aggrieved by the order of the assessing authority the assessee preferred appeal before the Deputy Commissioner (Appeals) Ernakulam. The main contention raised by the appellant was an error apparent made by the tax consultant where the purchase of capital assets by the assessee was shown as sales in order to nullify the stock. The appellant has sought a clarification of the matter before the assessing authority and submitted a copy of the request made before the</p>
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assessing authority. Based on a second opinion, the assessee was informed that they had committed an error by filing incorrect returns.

The assessee has claimed exemption of Rs. 2,29,22,571/- on sales to CSEZ units in the annual return filed for the year 2013-14. The appellant has submitted Audited financial statements before the appellate authority to prove their genuineness and also produced bank accounts to prove the claim of income is from service. The assessee has also produced certificate prepared by an independent Chartered Accountant based on the verification of the books of accounts of the appellant that the operational turnover of the appellant consist of service income only. Further, the appellant has earned certain miscellaneous income from scrap sales which has been declared in the KVAT return and tax due has been discharged.

The appellant has contented that goods / services incurred for building interior infrastructure for Rs. 2,29,22,571/- was actually services secured for interior work and civil work of the Unit in SEZ .

The appellant has contended that turnover of Rs. 2,94,60,039/- alleged as inter state purchase suppression was actual purchase of capital assets and the purchase has been duly accounted in the books of accounts under the head Capital assets and also submitted certificate of independent chartered Accountant to prove the genuineness of transaction. The assessee has submitted that the interior work of the office was done by the works contractors who had used the KVAT registered TIN number of the assessee and raised invoices in the name of

appellant which has been duly accounted and paid to the contractors.

The assessment completed was modified as per the direction of the appellate authority and also verifying the books of accounts and evidences produced by the assessee to prove the genuineness. It is also reported that the assessee being a information technology service provider and not a trader / manufacturer of goods. The assessee has reported the turnover covered for purchase of raw materials including iron and steel products, floor tiles, electrical goods for towards construction of office premises and machinery including computer systems for their use in office. The health drinks as per the sales was not sales but towards cost incurred on purchase of health drinks from M/s. Coffee day Global (TIN No. 32070229435 ) which is also accounted in the books of accounts and also uploaded in the KVATis in the monthly returns filed. . On verification of the sales details , it is noticed that there was no B2b sales or B2c Sales effected by the assessee.

The observation of the comptroller General towards short levy is only on the basis of incorrect return filed by the assessee. Even though this office has assessed the turnover for escaped turnover, the assessee preferred appeal before the Deputy Commissioner (Appeals) Ernakulam. Based on the directions contained in the appellate order, the assessment completed under Sec 25(1) of the KVAT Act 2003 was modified with a NIL demand. .

32072013472(2012-13)-

The assessment of the above dealer for the year 2012-13 has been completed vide order no.32072013472/dt.15-7-14. The short levy of tax pointed out by the Audit is made good by completing the assessment for the above year creating an additional demand of Rs. 24.17 lakhs. The amount is under RR before the Revenue authorities. Hence the audit objection in this regard may be dropped.

15 .M/s.Honey Automation India Ltd TIN32072013472(13-14)-

The assessment of the above dealer for the years 2013-14 has been completed vide order no.32072013472/dt. 24-11-15 respectively .The short levy of tax pointed out by the Audit is made good by completing the assessment for the above year creating an additional demand of Rs. 66.85 lakhs. The amount is pending under RR before the Inspecting Asst. Commissioner, Ernakulam. Hence the audit objection in this regard may be dropped.

(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	

(e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	
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 ഫാഡിഷണൽ സെക്രട്ടറി  
 ടിക്കുൽ വകുപ്പ്  
 ഫലംബന്ധം സെക്രട്ടറിയുടെ  
 തിരുവാനന്തപുരം

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

		Department	COMMERCIAL TAXES
	(a)		
	(b)	Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment Turnover exempted without furnishing the statutory documents
	(c)	Paragraph No.	2.4.7.6 (5)
	(d)	Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>As per Rule 10 of the KVAT Rules, the dealer is entitled to deduct the turnover 2005 if the turnover is supported by Form 43, Form 25F, Form 8H invoices, Form E1 or the documents supporting high sea sales as the case may be.</p> <p>Audit observed that 22 out of 37 dealers in 12 assessment circles exempted a turnover of Rs. 1,007.71 crore by claiming that the goods were sold (1) to a unit situated in SEZ, (2) through auction (3) as tax previously suffered on its MRP. However, no statutory documents such as Form 43, Form 25F or Form 8H, were produced to prove their claims. Audit found that the assessing officers were not completing the assessments, even in the absence of such statutory declarations. In the absence of such statutory forms, the exemption claimed was not in order resulting in short levy of tax including interest u/s 31(5) and penalty u/s 67 amounting to Rs.</p>

		<p>151.38 crore (Appendix VIII). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s. JMJ Trader of Special Circle, Kottayam was the biggest defaulter with tax effect of Rs. 51.37 crore. The nature of business dealt by these dealers are as follows:</p> <ul style="list-style-type: none"> <li>• Seven in Medicine with tax effect of Rs. 40.79 crore.</li> <li>• Five in Tea auction with tax effect of Rs. 50.70 crore.</li> <li>• Six were sellers to Special Economic Zone with tax effect of Rs. 58.55 crore.</li> <li>• Four were sub contractors with tax effect of Rs. 1.34 crore.</li> </ul>
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
V	(a)	Does the Department agree with the Audit conclusions?
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary

## REMEDIAL ACTION TAKEN

(a)	<p>Improvement in system and procedures, including internal controls.</p>	<p><u>Sl. No. 3 - Lulu International Shopping Mall (P) Ltd</u>  <u>32070393922/ 2013-14</u></p>
		<p>The audit objections mentioned though the above para is that during the year 2013-14, the dealer M/s.Lulu International Shopping Mall (P) Ltd. also availed exemption on the turnover of Rs. 1,91,02,342/- being second sales of medicine but not filing any supporting documents.</p>
		<p>On the basis of the audit objection, pre-assessment notice u/s 25(1) of the KVAT Act was issued to the dealer. The dealer filed their reply with supporting documents such as statement of Form 8H purchases for Rs.1,64,00,578.75 for the corresponding sales turnover Rs.1,91,02,342/- disclosed in the return.</p>
		<p>On verification of the details furnished by the dealer, it is ascertained that the exemption availed as per the return is correct and is in order. In the above circumstances, audit objection may kindly be dropped as there is no short levy of tax in this case.</p>
		<p><u>Sl. No. 4 Primus Gloves Pvt Limited</u>  <u>32070429955/2012-13</u></p>
		<p>Audit has observed that M/s. Primus Gloves Pvt. Limited has exempted a turnover of Rs 0.88 Crore as sales to units in SEZ without furnishing the statutory documents.</p>
		<p>Assessing authority has reported that assessment has been completed on 15-07-2016 creating an additional demand of Rs.211319/- with interest. Copy of assessment order is submitted herewith. Demand is under RR.</p>

**Sl. No.5 Harrison Malayalam Ltd.32150322101/2011-****12**

The objection raised was the turnover exemption of Rs.55,16,57,868/- on local sales without furnishing any statutory forms. On verification it is revealed that the dealers are tea planters who sells tea through brokers and who make available tea by storing in their warehouse to put in auction. When this tea sold in auction by the brokers they have invoiced the same on behalf of the planters and collect tax and remit the same to the Government exchequer and issue Form 25 F to planters on which they get exemption from payment of tax. In this case M/s. Harrison Malayalam Ltd. are the planters who filed Form 25F for the whole amount for which they claimed exemption for local sales. The assessing authority has verified their invoices with reference to the Form 25F filed and convinced that the exemption claimed on local sales is in order.

Hence the objection may be dropped.

**Sl No 6& 7****M/s Tata Coffee Ltd for the year 32150341855/2011-****12 &2012-13**

On the basis of audit objection, the assessing authority issued notice to the dealer. On receipt of the notice the dealer produced all statutory forms required and the assessing authority completed the assessment on 25.03.2015, creating additional demand of Rs 1360/-. Subsequently the dealer remitted the dues vide cheque no 590724 dtd 20.04.2015 and is encashed vide chalan no 67 dated 28.04.2015. As there is no dues are out-

standing against the dealer, the objection in this regard may be dropped.

(12) M/s.Parry Agro Industries Ltd -

32150398915/2011-12

The objection raised was the turnover exemption of Rs.66,54,16,650/- on local sales without furnishing the statutory forms. On receiving the objection a notice u/s 25(1) was issued to the dealer. In response to the notice a detailed reply filed along with form in 25F which was examined and revealed that the dealers are tea planters who sells tea through brokers. The brokers make available tea stored in their warehouse to put in auction. This tea, when sold in auction is invoiced by the brokers on behalf of the planters. They collect tax on behalf of the planters and remit the same to the Govt exchequer. They issue Form 25 F to the planters on which the planter's get exemption from payment of tax. The dealer filed Form 25F for the whole amount and I have verified their invoices also and convinced that the exemption claimed on local sales is in order.

Hence the objection may be dropped.

13. M/s.Parry Agro Industries Ltd -

32150398915/2012-13

The objection raised was the turnover exemption of Rs.79,15,18,259/- on local sales without furnishing the statutory forms. On receiving the objection a notice u/s 25(1) was issued to the dealer. In response to the notice a detailed reply filed along with form in 25F which was examined and revealed that the dealers are tea planters

who sells tea through brokers. The brokers make available tea stored in their warehouse to put in auction. This tea, when sold in auction is invoiced by the brokers on behalf of the planters. They collect tax on behalf of the planters and remit the same to the Govt exchequer. They issue Form 25 F to the planters on which the planter's get exemption from payment of tax. The dealer filed Form 25F for the whole amount and their invoices were verified and convinced that the exemption claimed on local sales is in order.

Hence the objection may be dropped.

#### 24. Uni Pharma(11-12)...

M/s. Uni Pharma, Pavakkulam LFC Road, Kaloor is a dealer of medicines.

The audit objection is that the dealer had exempted from the local sales of taxable goods not falling under the first schedule, a turnover of Rs. 14,91,92,915/- it being the second sales of medicine suffering tax on MRP. As per rule 10 of KVAT Rules, a dealer is entitled to deduct from the local sales of taxable goods, turnover of medicines sold by a dealer when tax on MRP had been paid by any previous dealer, if the turnover is supported by signed invoices in Form 8H issued by the previous dealer. It was noticed that the dealer had not submitted any documents to prove that turnover of medicines had suffered tax on MRP. In the absence of statutory documents, the exemption claimed should have been treated as local sales and tax levied accordingly.

The assessing authority has reported that the assessee purchased medicines valued

Rs.14,09,62,826.52 for the year 2011-12 in which tax on MRP had been paid by the seller. The assessee claimed exemption of medicine sales of Rs. 15,06,25,376.32 and also claimed sales return for Rs.14,32,461.00. Hence the claim of exemption of sales of medicines shown as Rs.14,91,92,915.00 in the return. The assessee produced the documents of purchase details such as bills in 8H and sales invoices before the assessing authority and he has verified the documents and found in order.

The assessing authority has also reported that he has copied details of purchase in 8H bills in the prescribed proforma in a CD since the volume of bills are very large and submitted to AG along with sample copies of bills.

#### 25. Uni Pharma (12-13) -

The audit objection is that the dealer had exempted from the local sales of taxable goods not falling under the first schedule, a turnover of Rs. 14,26,92,947/- it being the second sales of medicine suffering tax on MRP. As per rule 10 of KVAT Rules, a dealer is entitled to deduct from the local sales of taxable goods, turnover of medicines sold by a dealer when tax on MRP had been paid by any previous dealer, if the turnover is supported by signed invoices in Form 8H issued by the previous dealer. It was noticed that the dealer had not submitted any documents to prove that turnover of medicines had suffered tax on MRP. In the absence of statutory documents, the exemption claimed should have been treated as local sales and tax levied accordingly.

The assessing authority has reported that the

assessee purchased medicines valued Rs.13,69,03,562.78 for the year 2012-13 in which tax on MRP had been paid by the seller. The assessee claimed exemption of medicine sales of Rs. 14,38,20,808.57 and also claimed sales return for Rs. 12,55,779.50. While uploading the return for the month of August 2012 the value of sales return of Rs.1,27,918/- is added to the value of the total exempted sales instead of claiming sales return separately. Hence the claim of exemption of sales of medicines shown as Rs.14,26,92,947.00 in the return. The assessee produced the documents of purchase details such as bills in 8H and sales invoices. The assessing authority has verified the documents and found in order.

The assessing authority has also reported that he has copied details of purchase in 8H bills in the prescribed proforma in a CD since the volume of bills are very large and submitted to AG along with sample copies of bills.

#### 26. Out Source Partners International Pvt Ltd (13-14)

M/s. Outsource Partners International Pvt. Ltd., CEZ, Kakkanad is dealing accounting of overseas outsource work. In the annual return for the year 2013-14 in Part A Sales/Disposal, the assessee has shown an amount of Rs.22922571 under works contract. They have also shown the same figure under the head of works contract in Part C of the returns. Ie., Purchases. The assessee is not doing any works contract. The goods purchased are for own use. The same figure is shown in the sales portion in order to tally the stock position. Hence there is no loss of revenue in this case.

29 M/s. Malabar Builders India Ltd:32522961115/12-13

M/s. Malabar Builders India (P) Ltd, RM Road, Kozhikode is a registered dealer on the rolls of the Office of the State Tax Officer(Works Contract and Luxury Tax), Kozhikode bearing TIN 32522961115. The final assessment in respect of the dealer for the year 2012-13 was completed on 25-11-2017 by creating an additional demand of Rs. 1332494/- (Tax) and Rs. 7,46,197/- (interest).

30. M/s. Home Land Builders: 32111573464/13-14

The assessment of the dealer has been completed as per order No. 32111573464/2013-14 dated 18.3.17 of the Office of the State Tax Officer(Works Contract and Luxury Tax), Kozhikode creating additional demand of tax and interest of Rs. 1,29,515/-. The dealer has paid Rs. 19,188/-. Balance is pending under RR.

31. M/s. Appollo Build Tec India (P) Ltd:32111574906/13-14

The assessment of the dealer has been completed as per order No. 32111574906/2013-14 dated 30-01-2016 of Office of the State Tax Officer(Works Contract and Luxury Tax), Kozhikode creating additional demand of tax Rs. 13,72,365/- and interest 301920/-. The total amount of Rs. 16,74,285/- is pending with RR.

32 M/s. Monarch Builders & Developers:32111500893/11-12

M/s. Monarch Builders & Developers, Kozhikode is a registered dealer on the rolls of Office of the State Tax Officer(Works Contract and Luxury Tax), Kozhikode bearing TIN 32111500893. The assessment of the dealer

	<p>for the years 2011-12 and 12-13 has been completed on 31-10-2017. The books of accounts of the dealer has been called for. The final report should be submitted soon after the completion of the assessment.</p> <p>The remaining case was related to the office of the Assistant Commissioner, Special Circle I, Kozhikode. The Assistant Commissioner reported that the dealer was called for verification of books of accounts. The dealer replied that they are effecting MRP purchase and sales of medicine, hence claiming exemption. The dealer requested for two weeks time to produce evidence and supporting documents. Detailed reply will be submitted soon after verification of the above said documents.</p>
(b)	Recovery of overpayment pointed out by audit
(c)	Recovery of under assessment, short levy or other dues
(d)	Modification in the schemes and programmes including financing pattern
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.

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നികുതി വകുപ്പ്  
ഡവണ്ടേഴ്സ് സെക്രട്ടറിയേറ്റ്  
സിരുവന്നമ്പുരം

187

98

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I			Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph		Non adherence to provisions of Act and Rules while completing the assessment Excess claim of Special Rebate
	(c)	Paragraph No.		2.4.7.6 (7)
	(d)	Report No. and Year		
II	(a)	Date of receipt of the Draft Para / Review in the Department		
	(b)	Date of Department's Reply		
III		Gist of Paragraph/Review		<p>As per Section 12(1) of the Act, a dealer is entitled to deduct from the tax payable by him, a sum equal to the tax paid under sub-Section (2) of Section 6 where such goods are intended for resale or for use in the manufacture of taxable goods or for use in the execution of works contract or for use as containers or packing materials for the packing of taxable goods in the state.</p> <p>Audit noticed that three out of seven dealers whose returns were scrutinised in two assessment circles had availed special rebate of Rs. 6.13 crore against a purchase tax due / paid amounting to Rs. 5.97 crore during the year 2012 – 13. Since the claim of special rebate cannot be in excess of purchase tax due, the excess claim of special rebate resulted in short levy of tax including interest and penalty of Rs. 0.51 crore.</p>

IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

(a)	<p>Improvement in system and procedures, including internal controls.</p>	<p><b><u>1. M/s. JMJ Traders 32051107585/2012-13</u></b></p> <p>The dealer is engaged in the import of raw cashew nut and in the local sales of raw cashew nut and sale in the course of import (high sea sales) and local purchase and sales of pepper etc. Inorder to complete the assessment for the year 2012-13 pre-assessment notice was issued to the dealer. The Hon'ble High Court stayed the notice vide WP(C) No. 8038/19, dated 02.04.2019.</p> <p><b><u>2. M/s. St. Mary's Rubbers Pvt Ltd-32050276345/12-13</u></b></p> <p>The Special Rebate is claimed by the assessee from March 2012 to February 2013 onwards for Rs. 41322678.00 and the special rebate can be carry forward to the next return period. In this case the assessee had paid purchase tax Rs.40942818.00 during the year 2012-13. So the special rebate carry forwarded by the assessee found correct. This is no excess claim for special rebate in this case as pointed out by the Accountant General.</p> <p><b><u>3. Rubber Mark(32070491155)</u></b></p> <p>As per audit enquiry, a pre assessment notice u/s 25(1) of the KVAT Act, 2003 dated 04.01.2017 was served to the dealer. The dealer had replied that reverse tax for the month of february 2013 worked out to Rs. 18,53,221/- and related turnover should be Rs. 37064420/-. But mistakenly turnover was calculated to Rs. 4,63,30,525/- by applying tax rate @4% instead of</p>
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	5%. Accordingly there was an increase in turnover of reverse tax by Rs. 92,66,105/- For rectifying this mistake reverse tax of Rs. 2,08,01,746/- on total related turnover of Rs. 41,60,34,920/- had been remitted as per returns filed. Persued the reply and ascertained that there was not any short levy as said in the audit report.
(b)	Recovery of overpayment pointed out by audit
(c)	Recovery of under assessment, short levy or other dues
(d)	Modification in the schemes and programmes including financing pattern
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.

  
 സിനി ജെ. സുകുർ  
 അധികാരി സെക്രട്ടറി  
 നികുതി വകുപ്പ്  
 ശവണിക്കുർ സെക്രട്ടറിയേറ്റ്  
 തിരുവനന്തപുരം

191

102

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	STATE GOODS AND SERVICE TAX
	(b)	Subject/Title of the Review Paragraph	Non reversal of ITC on interstate sale of rubber
	(c)	Paragraph No.	2.4.7.6 (8)
	(d)	Report No. and Year	C & AG Report for the year ended 31.03.2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	Audit found that two out of eight dealers whose returns were scrutinised in two assessment circles were liable to reverse their ITC claim of Rs.2.33 crore, being the tax suffered on the purchase turnover of rubber sold interstate, but reversed only Rs. 2.08 crore. This resulted in short payment of tax including interest and penalty of Rs. 0.83 crore.
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a)	Does the Department agree with the Audit conclusions?	Yes
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

## REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.	<p><b><u>1. M/s.St.Mary's Rubbers Pvt. Ltd.</u></b>  <b><u>32050276345/ 2012-13</u></b></p> <p>The audit team pointed out that on scrutinising the returns, the dealer is liable to reverse their ITC claim of Rs. 0.17 crore, being the tax suffered on the purchase turnover of rubber sold interstate, but not reversed the amount. In this case the assessing authority has already disallowed the irregular IPT as per the proceedings dtd. 17.03.2014. Hence the objection may be dropped.</p> <p><b><u>2. M/s.St.Mary's Rubbers Pvt. Ltd.</u></b>  <b><u>32050276345/ 2013-14</u></b></p> <p>The audit team pointed out that on scrutinising the returns, the dealer is liable to reverse their ITC claim of Rs. 0.04 crore, being the tax suffered on the purchase turnover of rubber sold interstate, but not reversed the amount. As per Circular No. 17/2013, Interstate sales turnover of natural rubber is exempted from tax on condition that purchase turnover of such goods should have suffered tax under KVAT Act, 2003 and the dealer shall produce declaration in Form C, prescribed under CST Rules, obtained from the buyer. If the conditions are not satisfied, the benefit of the Notification would be denied tax is levied under CST Act.</p> <p>In this case, the dealer had not exempted the interstate sales turnover of rubber sheets, but collected and remitted the CST @2%. SRO 753/2011 or SRO 804/2008 are conditional ones and hence optional. The Hon'ble High Court of Kerala in K.V. Gangadharan Vs. Addl. Sales Tax Officer (1 KTR 364) held that "It is open to assess to avail of a conditional benefit or not to avail of it". Here the dealer</p>
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opted to pay tax on the interstate sales of rubber sheet. Therefore, tax paid on the purchase is eligible for ITC under Sec. 11 of KVAT Act.

**3. Rubber Mark(32070491155)**

As per audit enquiry, a pre assessment notice u/s 25(1) of the KVAT Act, 2003 dated 04.01.2017 was served to the dealer. The dealer had replied that reverse tax for the month of february 2013 worked out to Rs. 18,53,221/- and related turnover should be Rs. 3,70,64,420/-. But mistakenly turnover was calculated to Rs. 4,63,30,525/- by applying tax rate @4% instead of 5%. Accordingly there was an increase in turnover of reverse tax by Rs. 92,66,105/-. For rectifying this mistake reverse tax of Rs. 2,08,01,746/- on total related turnover of Rs. 41,60,34,920/- had been remitted as per returns filed. Persued the reply and ascertained that there was not any short levy as said in the audit report.

	Recovery of overpayment pointed out by audit	NA
(c)	Recovery of under assessment, short levy or other dues	NA
(d)	Modification in the schemes and programmes including financing pattern	NA
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	NA

സിനി ജെ. കുമാർ  
അബിഷ്മാൻ സെക്രട്ടറി  
നോട്ടറി വകുപ്പ്  
ഗവൺമെന്റ് റെക്കറ്റിംഗ്  
കോർപ്പറേഷൻ

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	COMMERCIAL TAXES
	(b)	Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment  Irregular claim of exemption from the contract receipt by dealers who opted to pay tax under compounding scheme
	(c)	Paragraph No.	2.4.7.6 (9)
	(d)	Report No. and Year	
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>As per Section 8(a) of the Act, a dealer, instead of paying tax under section 6, can opt for payment of tax at the rate stipulated for the whole amount of contract. As such, a dealer who opted to pay tax under Section 8(a), is not eligible to deduct any amount from the contract receipt received by him. This position was upheld in a judicial review by the High Court of Punjab and Haryana.</p> <p>Audit found that 12 out of 22 works contractors/builders in four assessment circles had availed exemption of the value of land amounting to ₹ 33.14 crore from their contract receipt to arrive at the taxable turnover. This is against the provisions of the Act and had resulted in short payment of tax including interest and penalty of</p>

		<p>₹3.30 crore (Appendix IX) The tax district-wise deviation from provisions of the Act/Rules .</p> <p>Audit observed that amongst the defaulters, M/s. Hilite Builders of Works Contract Office, Kozhikod was the biggest defaulter with tax effect of ₹ 1.19 crore. Audit noticed that M/s. Pazheri Properties &amp; Developers (P)Ltd of Works Contract Office, Kozhikode repeated the default for three years.</p> <p>Audit found that acceptance of returns of the dealers who were not adhering to the provisions in the statute led to evasion of tax.</p>
IV	(a)	Does the Department agree with the facts and figures included in the paragraph?
	(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support
V	(a)	Does the Department agree with the Audit conclusions?
	(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary

(a)	Improvement in system and procedures, including internal controls.	<u>Sl.No.9</u> <u>Sreerosh</u> <u>Properties</u> <u>(P)</u> <u>Ltd</u>
		<u><a href="#">32121266804/2012-13</a></u>
		<p>Assessment for the year 2012-13 has been completed vide order No. 32121229803/2012-13 dated 03.11.2015. The assessee filed an appeal before Deputy Commissioner (Appeals), and the Deputy Commissioner(Appeals) Kozhikode ordered to modify the original assessment as per order No. VATA 616/16 dated 22.08.2018. Assessment has been modified as per this office proceedings dated 03.08.2021 and the modified demand of Rs. 44,343/- settled under Amnesty Scheme 2021 vide e-chalan No KL011673418202122E dtated 20.09.2021. Hence the defect pointed out may kindly be dropped.</p> <p><u>Sl.No.10</u>      <u>Sreerosh</u>      <u>Properties</u>      <u>(P)</u>      <u>Ltd</u></p> <p><u><a href="#">32121266804/2013-14</a></u> -</p> <p>Assessment for the year 2013-14 has been completed vide order No. 32121229803/2012-13 dated 15.02.2016. The assessee filed an appeal before Deputy Commissioner (Appeals), - and the Deputy Commissioner(Appeals) Kozhikode ordered to modify the original assessment as per order No. VATA 616/16 dated 22.08.2018. Assessment has been modified as per this office proceedings dated 20.09.2021 and the modified demand of Rs. 61818/- settled under Amnesty Scheme 2021 vide e-chalan No KL011673418202122E dtated 20.09.2021. Hence the defect pointed out may</p>

kindly be dropped

Sl.No.11 SB Developers 32121208045/2011-12

Assessment for the year 2011-12 has been completed vide order No. 32121208045/2011-12 dated 20.09.2014. The assessee filed an appeal before Deputy Commissioner (Appeals), and the Deputy Commissioner(Appeals) Kozhikode ordered to modify the original assessment as per order No. VATA 06/15 dated 08.05.2017. Assessment has been modified as per this office proceedings dated 27.03.2018 and the modified demand of Rs. 25374/- adjusted from the amount already remitted by the assessee as per chalan No. 328 dated 31.07.2015. Hence the defect pointed out may kindly be dropped.

Sl.No.12 SB Developers 32121208045/2012-13

Assessment for the year 2012-13 has been completed vide order No. 32121208045/2012-13 dated 20.09.2014. The assessee filed an appeal before Deputy Commissioner (Appeals), and the Deputy Commissioner(Appeals) Kozhikode ordered to modify the original assessment as per order No. VATA 06/15 dated 08.05.2017. Assessment has been modified as per this office proceedings dated 27.03.2018 and the modified demand of Rs. 13152/- adjusted from the amount already remitted by the assessee as per chalan No. 328 dated 31.07.2015. Hence the defect pointed out may kindly be dropped.

Sl.No.13 M/s. Beeline Builders & Developers:32111511849/12-13

The assessment of the dealer have been completed as per the order No. 32111511849/2012-13 dated 28-10-2017 of the State Tax Officer(Works Contract), Kozhikode creating additional demand of Rs.72,765/-.

Sl.No.14 M/s. Pentium Constructions:32111514595/11-12

M/s. Pentium Constructions (P) Ltd, AG Road, Kozhikode is a registered dealer on the rolls of the Office of the State Tax Officer(Works Contract) bearing TIN 32111514595. The assessment of the dealer for the year 2011-12 was completed on 08-01-2018 by creating an additional demand of Rs. 11,33,570/- (Tax) and Rs.7,93,499/- (Interest).

Sl.No.15 M/s. Pentium Constructions:32111514595/12-13

Pre assessment notice has been issued to the dealer on 25-11-2017 for the year 2012-13. The dealer has filed reply on 16-12-2017. Final report shall be submitted soon after the completion of final assessment.

Sl.No.16 M/s. Hilite Builders: 32111555084/10-11

The assessment of the dealer was originally completed as per the order No. 32111555084/10-11 dated 25-06-2011 of the State Tax Officer(Works Contract), creating additional demand of tax Rs. 42,06,090/- and interest of Rs. 3,01,891/-. Later on

verification of the audited statements variations have been noticed and reopened the assessment and completed as per order dated 04-03-2013 with additional demand of tax Rs. 97,34,338/- and interest Rs. 22,38,898/-. The assessee preferred appeal against the order which was modified by the Deputy Commissioner (Appeals)I, Kozhikode.

In response to the directions contained in the appellate order the books of accounts and the receipt details have been verified by the then assessing authority and completed the assessment with due notice. The amount of income recognized as per the books of accounts is taken for assessment and completed as per the order No. 32111555084/10-11 dated 29-10-2014 of the State Tax Officer(Works Contract). As per this order the tax due is Rs. 2,32,19,767/- after deducting the tax paid and interest due is Rs.5323511/-. In Appeal the Deputy Commissioner (Appeals) modified the appeal. Considering the appellate order and the request filed by the dealer for rectification of error the assessment was again modified, reducing additional demand of Rs. 2,06,65,709/-. This was completely remitted by the dealer with interest through various remittances up to 28-02-2015.

For the willful suppression of turnover the State Tax Officer(Works Contract) have imposed penalty of Rs. 2,32,19,767/- as per order No. 32111555084/10-11 (P) dated 09-02-2015. This was challenged before the Deputy Commissioner which was dismissed as per order No. RP 52/2015 dated 06-02-2016 of the Deputy Commissioner, Kozhikode. -The assessee filed 2<sup>nd</sup>

revision before the Commissioner of Commercial Taxes and as per order No. R3-8243 and 8244/2016/CT dated 25-07-2016 the case was remanded by the Commissioner, with direction to check the entire case and if suppression is established maximum penalty should be imposed. The facts were again verified and as the entire tax already assessed is admitted by the assessee it is evident that the assessee has admitted the offence. In the circumstances this office has confirmed the penalty equal to the tax so suppressed as made in the original order for Rs. 2,06,65,709/-. The assessee not satisfied with the order of the Commissioner has filed OTR 166/2016 before the Hon'ble High Court of Kerala which is pending for disposal. The Hon'ble High Court ordered stay of collection of the amount.

Sl.No.17 M/s. Hilite Builders: 32111555084/11-12

The assessment of the dealer has been completed as per the order No. 32111555084/2011-12 dated 31-08-2015 of the State Tax Officer(Works Contract) As per the order he dealer s in excess remittance of Rs. 32,73,222/-.

Sl.No.18. M/s. Jairaj Properties (TIN 32072015935)

2010-11

Audit found that the dealer has claimed exemption Rs. 20 lakhs which lead to a short levy Rs. 2 lakhs including tax, interest and penalty.

Assessment for the year 2010-11 was completed u/s. 25(1) vide order No. 32072015935/2010-11 dated 29.09.2012 creating an

additional demand of Rs.2,80,026/- (VAT) and Rs.49,900/- (Interest) created.

The assessee approached Deputy Commissioner (Appeals) against the above order and vide order No. KVATA 1475/14, 3395/12, 3396/12, 3403/12 dated 11.10.2017 the assessment was modified. As per the modified order, there is no tax payable by the assessee. Excess Rs.75,000.00.

Sl.No.19. M/s.Oxonia builders and Developers Pvt Ltd (TIN 32072022628) 2013-14

The defect pointed out by the Accountant General is that the dealer exempted sale value of land of Rs.51,64,100/- from the assessable turnover M/s. Oxoniya Builders and Developers Pvt. Ltd have filed Annual return disclosing a turnover of Rs. 10,63,51,871/-. As per schedules attached to P&L the dealer has disclosed a turnover of Rs. 11,58,24,443/- as revenue from operations. Thus the difference between P&L and Annual return is Rs. 94,72,572/-. As per order no. 32072022628/13-14 dated 30-01-2017, the difference has been assessed to tax, since it is not proved with supporting documents. The assessed turnover of Rs. 94,72,572/- includes the turnover of sale of value of land. The relevant portion of the P&L is produced herewith. The additional demand created as per the assessment order dated 30-01-2017 is Rs.32,56,662/- (Tax Rs. 24,12,342/- and interest of Rs.8,44,320/-). The amount is under Revenue Recovery.

202

113

Sl.No.20. M/s.Sophia Builders (TIN 32072048605)

2012-13

Audit found that the dealer has claimed exemption Rs. 149 lakhs which lead to a short levy Rs. 14 lakhs including tax, interest-and penalty.

Assessment was completed for the year 2012-13 on 26.07.2018 with an additional demand of Rs.28,69,556.00 (Tax Rs.17,60,464 and Interest Rs. 11,09,092). Collection of the demand stayed by the Hon'ble High Court of Kerala as per order WP(C) No.25151/2018 dated 26.07.2018.

Assessee opted Amnesty Scheme 2021 and remitted outstanding amount fully. (chalan GRN KL012515032202122E).

Sl.No. 21. M/s.Sophia Builders (TIN 32072048605)

2013-14

Audit found that the dealer has claimed exemption Rs. 190 lakhs which lead to a short levy Rs. 19 lakhs including tax, interest and penalty.

Assessment was completed on 28.06.2018 with additional demand of Rs.97,77,111 (Tax Rs.6,86,076 and Interest Rs.2,91,635). Copy of assessment order is submitted herewith for kind perusal. Collection of the amount stayed by the Hon'ble High Court of Kerala as per order WP(C) No.25119/2018(L) dated 26.07.2018.

Assessee opted Amnesty Scheme 2021 and remitted and outstanding amount fully. (chalan GRN

		KL012515032202122E).
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

സിനി ജെ. സുകുമാർ  
അധികാരി സെക്രട്ടറി  
നികുതി വകുപ്  
ഗവൺമെന്റ് സെക്രട്ടറിയേറ്റ്  
തിരുവനന്തപുരം

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 1 Sl.No.5	<p>Section 42(1) of KVAT Act, 2003 stipulates that every dealer whose total turnover in a year exceeds rupees sixty lakh shall get his accounts audited annually by a Chartered Accountant or Cost Accountant and shall submit a copy of the audited statement of accounts and certificate in Form 13 &amp; 13A. Section 24(1)(a) of the Act, stipulates rejection of the return, if there is discrepancy between the return filed and audited accounts and to complete the assessment to the "best of judgement". As per section 42(2) of the Act, the dealer is liable to pay any additional tax with reference to the audited figures, interest thereon under Section 31(5) and penal interest at twice the rate of interest accrued.</p> <p>Audit noticed that in 14 assessment circles, 15 dealers failed to report the accounted sales whereas 14 dealers failed to report the turnover accounted as 'other receipts'.</p> <p>The 'other receipts' were warranty claim, AMC receipt, trade discount, subsidy or other receipts to make up the loss sustained etc. which were liable for tax. The total turnover escaped from assessment of tax worked out to Rs. 323.22 crore and the resultant short levy of tax including interest under Section 31(5), penal interest and penalty under Section 67 amounted to Rs.105.30 crore (Appendix V). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s Hindustan Unilever Limited of Special Circle Mattancherry was the biggest defaulter with tax effect of Rs. 41.61 crore. The nature of business dealt with by other dealers are given below:</p> <ul style="list-style-type: none"> <li>• Four in Fast Moving Consumer Goods with tax effect of Rs. 51.09 crore.</li> <li>• Four in Supermarket with tax effect of Rs. 7.50 crore.</li> <li>• Three in batteries with tax effect of Rs. 4.50 crore.</li> <li>• Eighteen in multiple commodities with</li> </ul>	<p><b>5. Eveready Industries India Ltd.</b> <b>32070249944/2013-14</b> <b>CTO, Special Circle-I, Ernakulam</b></p> <p>Considering the audit objection the assessment has been completed as per proceedings No.32070249944/2013-14 dated 23-12-2016 fixing total tax due Rs.63,80,984.94, Interest Rs.21,05,725.03 and total amount due Rs.84,86,710/-.</p> <p>The assessee paid Rs.12,76,200/- and filed Appeal against this order before the Deputy Commissioner (Appeals), Commercial Taxes, Ernakulam.</p> <p>As per Section 7 of the KVAT Act 2003 and Circular No.5 dated 04-04-2005 of the Hon'ble Commissioner, Commercial Taxes, Thiruvananthapuram "if a dealer allows any discount in goods in relation to any sale effected by him the quantity so allowed as trade discount shall be deemed to be a sale by the dealer who allow such discount or incentive and a purchase by the dealer who receives such trade discount or incentive and that such sale shall form part of the sale in relation to which such trade discount or incentive is allowed.</p> <p>As per the judgement of M/s. Tamil Nadu Newsprint Vs. State of Kerala of the Hon'ble High Court, Sales tax under KVAT Act is payable only on the sales turnover after admissible deduction, including eligible discount and the difference between stock transfer value and sales turnover cannot be assessed unless the same is found to be suppressions of sales turnover.</p> <p>In the circumstances, the Deputy Commissioner (Appeals), Commercial Taxes, Ernakulam disposed the Appeal No. KVATA 567/2017 dated 12-02-2019 with the following findings:-</p> <p style="text-align: right;">"quantity discount allowed by</p>

	<p>tax effect of Rs. 142.21 crore. Thus, failure of assessing officers to adhere to the provisions of the Act and rules resulted in non-detection of irregularities.</p>	<p>the appellant is a part of trade policy of the appellant company and also quantity discount is passed through the tax invoice issued to the appellant, assessment on this turnover is not justifiable. Assessing authority is directed to modify the assessment on turnover of discount.” Accordingly the original assessment in respect of M/s. Eveready Industries for the year 2013-14 has been modified as per Order No.32070249994/13-14 (VAT) dt.16-07-2020 (Modified) with excess demand. As there is no escaped turnover, the audit objection may kindly be dropped.</p>
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Para No.	Gist of the case	Present position												
2.4.7.6 Bullet 1 Sl.No.15	<p>Section 42(1) of KVAT Act, 2003 stipulates that every dealer whose total turnover in a year exceeds rupees sixty lakh shall get his accounts audited annually by a Chartered Accountant or Cost Accountant and shall submit a copy of the audited statement of accounts and certificate in Form 13 &amp; 13A. Section 24(1)(a) of the Act, stipulates rejection of the return, if there is discrepancy between the return filed and audited accounts and to complete the assessment to the "best of judgement". As per section 42(2) of the Act, the dealer is liable to pay any additional tax with reference to the audited figures, interest thereon under Section 31(5) and penal interest at twice the rate of interest accrued.</p> <p>Audit noticed that in 14 assessment circles, 15 dealers failed to report the accounted sales whereas 14 dealers failed to report the turnover accounted as 'other receipts'.</p> <p>The 'other receipts' were warranty claim, AMC receipt, trade discount, subsidy or other receipts to make up the loss sustained etc. which were liable for tax. The total turnover escaped from assessment of tax worked out to Rs. 323.22 crore and the resultant short levy of tax including interest under Section 31(5), penal interest and penalty under Section 67 amounted to Rs.105.30 crore (<b>Appendix V</b>). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s Hindustan Unilever Limited of Special Circle Mattancherry was the biggest defaulter with tax effect of Rs. 41.61 crore. The nature of business dealt with by other dealers are given below:</p> <ul style="list-style-type: none"> <li>• Four in Fast Moving Consumer Goods with tax effect of Rs. 51.09 crore.</li> <li>• Four in Supermarket with tax effect of Rs. 7.50 crore.</li> <li>• Three in batteries with tax effect of Rs. 4.50 crore.</li> <li>• Eighteen in multiple commodities with tax effect of Rs. 142.21 crore.</li> </ul> <p>Thus, failure of assessing officers to adhere to the provisions of the Act and rules resulted in non-detection of irregularities.</p>	<p><b>15. Hindustan Unilever Limited</b>  <u>32150254454/2013-14</u>  <u>CTO, Special Circle,</u>  <u>Mattancherry at Aluva</u></p> <p>The assessment for the year 2013-14 was completed on 27.02.2016 creating additional demand of Rs 1,16,85,383/- as Tax and Rs 25,70,784/- as interest. Subsequently the assessing authority remanded the assessment on 08.02.2021 as NIL demand, on the basis of common judgment dtd 07.03.2020 of KVAT Appellate Tribunal in TA(VAT) no 355 to 361 of 2019. This remanded assessment order was rectified on 30.03.2021 with excess payment of Rs.42,76,850/-.</p> <p><i>Difference in Turnover between Form 10 Annual return &amp; Audit Report for Rs. 97.14 crores was due to that the total turnover (total turnover prior to tax and discount) as per Form 10 has been compared with total turnover inclusive of tax as per audit statement (Form 13A). The 'total turnover' appearing in the annual returns is the turnover prior to tax and discount while as per audit statement it is inclusive of tax.</i></p> <p><u>As per Form 10 – Annual return</u></p> <table border="1"> <thead> <tr> <th>Total Turnover</th> <th>Exemption claimed</th> <th>Taxable Turnover</th> <th>Output tax due</th> <th>Total Turnover including tax</th> </tr> </thead> <tbody> <tr> <td>9,28, 56,38 ,809</td> <td>17,1 6,96, 125</td> <td>9,11, 39,42 ,684</td> <td>1,14, 38,81 ,663</td> <td>10,2 5,78, 24,34 7</td> </tr> </tbody> </table> <p><u>As per Form 13A</u></p> <table border="1"> <thead> <tr> <th></th> <th>Difference</th> </tr> </thead> </table>	Total Turnover	Exemption claimed	Taxable Turnover	Output tax due	Total Turnover including tax	9,28, 56,38 ,809	17,1 6,96, 125	9,11, 39,42 ,684	1,14, 38,81 ,663	10,2 5,78, 24,34 7		Difference
Total Turnover	Exemption claimed	Taxable Turnover	Output tax due	Total Turnover including tax										
9,28, 56,38 ,809	17,1 6,96, 125	9,11, 39,42 ,684	1,14, 38,81 ,663	10,2 5,78, 24,34 7										
	Difference													

Turnover inclusive of tax	(10,25,78,24,347 - 10,25,70,65,874)
10,25,70,65,874	7,58,473

For the difference of 7,58,473 the explanations are given below

a) In the month of Nov & Dec 2013, the "Sales in the course of export" (exempted turnover) of

Rs.7,75,650/- was reported under 0% Local Sales Turnover in Annual Return (Form 10) and the same has been duly considered in our Audit Statement Form 13A correctly.

b) Between April to June 2013, the Eligible Sales Returns which were earlier sold at 13.5% tax rate, were reported at 14.5% Tax rate in the specific column as there was no relevant field for 13.5% Tax rate in Form 10. Under 14.5% Tax category, both 13.5% & 14.5% sales return turnover at net, had got reported in Form 10. Hence the difference.

Para No.	Gist of the case	Present position																					
2.4.7.6 Bullet 1 Sl.No.21	<p>Section 42(1) of KVAT Act, 2003 stipulates that every dealer whose total turnover in a year exceeds rupees sixty lakh shall get his accounts audited annually by a Chartered Accountant or Cost Accountant and shall submit a copy of the audited statement of accounts and certificate in Form 13 &amp; 13A. Section 24(1)(a) of the Act, stipulates rejection of the return, if there is discrepancy between the return filed and audited accounts and to complete the assessment to the "best of judgement". As per section 42(2) of the Act, the dealer is liable to pay any additional tax with reference to the audited figures, interest thereon under Section 31(5) and penal interest at twice the rate of interest accrued.</p> <p>Audit noticed that in 14 assessment circles, 15 dealers failed to report the accounted sales whereas 14 dealers failed to report the turnover accounted as 'other receipts'.</p> <p>The 'other receipts' were warranty claim, AMC receipt, trade discount, subsidy or other receipts to make up the loss sustained etc. which were liable for tax. The total turnover escaped from assessment of tax worked out to Rs. 323.22 crore and the resultant short levy of tax including interest under Section 31(5), penal interest and penalty under Section 67 amounted to Rs.105.30 crore (Appendix V). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s Hindustan Unilever Limited of Special Circle Mattancherry was the biggest defaulter with tax effect of Rs. 41.61 crore. The nature of business dealt with by other dealers are given</p>	<p><u>21. Paragon Steels (P) Ltd.</u>  <u>32090250802/2013-14</u>  <u>CTO, Special Circle, Palakkad</u></p> <p>The Accountant General has pointed out that there was a variation of sales turnover of about 5 crore between the sales turnover disclosed in annual return 2013-14 and the short levy worked out to 0.25 crore with the interest. The variation is on account of inclusion of tax (VAT &amp; CST) collected Rs. 4,85,06,694/- and debit note for Rs. 7,57,418/- in the sales turnover of the Audit Report. A reconciliation statement had been attached to the Audit Statement, by the Auditor as under.</p> <table border="1"> <tbody> <tr> <td>Total sales as per the annual return</td> <td>:Rs.</td> <td>97,49,49,109.00</td> </tr> <tr> <td>1) Add KVAT collected</td> <td>:Rs.</td> <td>4,85,06,694.00</td> </tr> <tr> <td>2) Add CST Collected</td> <td>:Rs.</td> <td>97,831.00</td> </tr> <tr> <td>3) Add debit note</td> <td>:Rs.</td> <td>7,57,418.00</td> </tr> <tr> <td>Total</td> <td>:Rs.</td> <td>1,02,43,11,052.00</td> </tr> <tr> <td>Less fixed asset sales value</td> <td>:Rs.</td> <td>14,43,413.00</td> </tr> <tr> <td>Turnover as per 13, 13A</td> <td>:Rs.</td> <td>1,02,28,67,639.00</td> </tr> </tbody> </table> <p>This has been verified and found correct. Hence there is no variation as alleged in the Audit Para and therefore the defect may be waived.</p> <p>While completing the final assessment for the year 2013-14 as per order No.32097250802/2013-14 dated 26-02-2018, the Assessing Authority noticed that, as per the Profit &amp; Loss Account, the dealer had sustained Gross Loss. Since no explanation was available regarding the gross loss it was proposed to estimate the sales turnover by adding 4% GP to the cost of goods for sale. In the reply filed, the dealer had explained the reasons for the fall in the sales turnover. However, the dealer had availed IPT credit of Rs.3,53,52,999/- on the</p>	Total sales as per the annual return	:Rs.	97,49,49,109.00	1) Add KVAT collected	:Rs.	4,85,06,694.00	2) Add CST Collected	:Rs.	97,831.00	3) Add debit note	:Rs.	7,57,418.00	Total	:Rs.	1,02,43,11,052.00	Less fixed asset sales value	:Rs.	14,43,413.00	Turnover as per 13, 13A	:Rs.	1,02,28,67,639.00
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Turnover as per 13, 13A	:Rs.	1,02,28,67,639.00																					

269

<p>below:</p> <ul style="list-style-type: none"> <li>• Four in Fast Moving Consumer Goods with tax effect of Rs. 51.09 crore.</li> <li>• Four in Supermarket with tax effect of Rs. 7.50 crore.</li> <li>• Three in batteries with tax effect of Rs. 4.50 crore.</li> <li>• Eighteen in multiple commodities with tax effect of Rs. 142.21 crore.</li> </ul> <p>Thus, failure of assessing officers to adhere to the provisions of the Act and rules resulted in non-detection of irregularities.</p>	<p>local purchase turnover. In the event of sales of goods at a lower price than the cost price, the dealer is not eligible for the proportionate IPT credit as stipulated under section 11 of the act. As per the Profit &amp; Loss Account the dealer had sustained loss about 4.45% to the cost of goods sold. Hence the proportionate IPT claim Rs. 15,73,208/- being 4.45% of Rs.3,53,52,999/-, is disallowed. The proposal is modified to the extent. The disputed amount is under RRC to the district Collector RR/2018/4588/9 dated 25-04-2018 and RRC sent to the other state RRC 64/18-19 dated 18-12-2018.</p> <p>Assessment in respect of the dealer for the year 2013-14 was completed vide this office order No.32090250802/2013-14 dated 26-02-2018. The variation of sales turnover was considered while completing the assessment along with other defects detected on KVATIS scrutiny. The variation is on account of inclusion of tax (VAT &amp; CST) collected Rs. 4.85,06,694/- and debit note for Rs. 7,57,418/- in the sales turnover of the Audit Report. Revenue recovery proceedings had been initiated to collect the dues. But the dealer had filed appeal before the NCLT Chennai Branch. Hence the arrears were reported to the Resolution Professional in Proper Form. No amount were remitted towards the arrears till date. RRC Issued to district collector palakkad, RRC No.2018/4588/9 dated 25/04/2018 and RRC issued to Tamilnadu.</p> <p>As per the National Company Law Tribunal, Chennai Bench vide order no. CP/553/(IB)/CB/2017 dated 24.07.2018, the tribunal has approved the resolution plan submitted by the resolution professional for M/s Paragon Steels (P) Ltd. RRC notices (File No:DCPKD/10603/2018-B1) forwarded to District Collector, Coimbatore through the District collector, Palakkad for serving the same to the defaulters. A request has been submitted to the District Collector, Coimbatore to report the present status of the RRC, but the reply is not yet received.</p> <p>Copy of the order of the approved resolution plan enclosed as Annexure 1.</p>
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Para No.	Gist of the case	Present position
2.4.7.6 Bullet 1 Sl.No.22	<p>Section 42(1) of KVAT Act, 2003 stipulates that every dealer whose total turnover in a year exceeds rupees sixty lakh shall get his accounts audited annually by a Chartered Accountant or Cost Accountant and shall submit a copy of the audited statement of accounts and certificate in Form 13 &amp; 13A. Section 24(1)(a) of the Act, stipulates rejection of the return, if there is discrepancy between the return filed and audited accounts and to complete the assessment to the "best of judgement". As per section 42(2) of the Act, the dealer is liable to pay any additional tax with reference to the audited figures, interest thereon under Section 31(5) and penal interest at twice the rate of interest accrued.</p> <p>Audit noticed that in 14 assessment circles, 15 dealers failed to report the accounted sales whereas 14 dealers failed to report the turnover accounted as 'other receipts'.</p> <p>The 'other receipts' were warranty claim, AMC receipt, trade discount, subsidy or other receipts to make up the loss sustained etc. which were liable for tax. The total turnover escaped from assessment of tax worked out to Rs. 323.22 crore and the resultant short levy of tax including interest under Section 31(5), penal interest and penalty under Section 67 amounted to Rs.105.30 crore (<b>Appendix V</b>). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s Hindustan Unilever Limited of Special Circle Mattancherry was the biggest defaulter with tax effect of Rs. 41.61 crore. The nature of business dealt with by other dealers are given below:</p> <ul style="list-style-type: none"> <li>• Four in Fast Moving Consumer Goods with tax effect of Rs. 51.09 crore.</li> <li>• Four in Supermarket with tax effect of Rs. 7.50 crore.</li> <li>• Three in batteries with tax effect of</li> </ul>	<p><b><u>22. T.V.Sundaram Iyengar &amp; Sons Ltd.32010188782/2013-14</u></b>  <b><u>CTO, Special Circle,</u></b>  <b><u>Thiruvananthapuram</u></b></p> <p>Based on the audit objection the assessment for the year 2013-14 was completed on 06/02/2017 creating an additional demand of Rs.16,58,15,779/- Against this the dealer filed appeal before the Joint Commissioner (Appeals), Thiruvananthapuram and the above said assessment was modified as per order No. KVATA 237/17 dated 29/06/2019 of the Joint Commissioner (Appeals), Thiruvananthapuram.</p> <p>The assessment was modified on 16.08.2022 which was further rectified under Section 66 vide order dated 19.09.2022, DC, Spl Circle, Tvpn demanding tax Rs. 4,07,45,183/- and interest Rs.4,15,60,087/-, Total: Rs.8,23,05,269/- The dealer has again filed appeal before the Hon'ble State Appellate Tribunal vide Appeal No. TA(VAT) No.352/19, the Appellate Tribunal directed to modify the assessment after verifying the books of accounts. The assesee has not produced the books of accounts hence the modification is pending.</p>

	<p>Rs. 4.50 crore.</p> <ul style="list-style-type: none"><li>• Eighteen in multiple commodities with tax effect of Rs. 142.21 crore.</li></ul> <p>Thus, failure of assessing officers to adhere to the provisions of the Act and rules resulted in non-detection of irregularities.</p>	
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## 2.4.7.6 Bullet 2

Case No.43

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Para No.	Gist of the case	Present position
2.4.7.6(2) Sl.No.5	<p>Audit found that eight out of 17 dealers scrutinised in five assessment circles failed to report in their annual return, the transactions accounted as interstate stock transfer out. The dealers did not report the transaction and also failed to submit statutory Forms to claim exemption. Though statutory declarations were not filed, the assessing officer did not levy tax on the turnover of goods treating it as a local sale. Non-reporting of transactions worth Rs. 384.79 crore resulted in short levy of tax including interest and penalty of Rs. 140.53 crore.</p>	<p><b><u>5.Hindustan Unilever Limited</u></b>  <b><u>32150254454/2013-14</u></b>  <b><u>CTO, Special Circle, Mattancherry</u></b></p> <p>M/s Hindustan Unilever limited was a dealer bearing TIN 32150254454 on the rolls of the o/o Assistant commissioner, special circle Mattanchery at Aluva. After the restructuring of department rolls of the dealer re-allocated to TPS Thrissur.</p> <p>The final assessment under Rule 6(5) of the central sales tax (kerala) Rules 1957 in respect of the said dealer for the year 2013-14 was completed incorporating the defect pointed out by AG with a demand of tax Rs 80,251, vide order No 32150254454C/2013-14 dated 30.12.2017 of the Assistant commissioner special circle Mattanchery at Aluva. As per annual return the assessee conceded Interstate stock transer (out)amounting to Rs.58,55,91,583 whereas the assessee produced F Form covering a turnover of Rs.58,51,61,24.. Balance turnover which has not been covered by Form No.F assessed to tax at higher rate. Accordingly the dealer has paid whole amount of tax Rs.80,251 with interest Rs.36,916, vide chalan no.KL012333629201718M dtd. 06/04/2018. In the circumstances it is requesting that the audit objection regarding the case be treated as non sustainable.</p>

## 2.4.7.6 Bullet 3

Case No. 47

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 3 Sl.No.1	<p>As per Rule 10 of the KVAT Rules, 2005, the allowable deductions from local sale of taxable goods are (1) sale of goods to units in Special Economic Zone (SEZ) (2) sale to his agent or principal (3) sale of medicines purchased on invoices in Form 8H.</p> <p>Audit found that in case of 25 out of 42 dealers whose returns scrutinised in nine assessment circles, the assessees availed exemption of turnover of Rs. 671.45 crore from their local sales turnover without mentioning the nature of exemption. Since no exemption is allowable from the local sales of a dealer under the Act other than those mentioned above, the exemption availed was not in order. However, the assessing authority accepted the returns without assessing the irregular exemptions. This resulted in short levy of tax including interest under Section 31(5) and penalty under Section 67 of Rs. 234.89 crore (Appendix VI). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s Indian Oil Corporation of Special Circle II Ernakulam was the biggest defaulter with tax effect of Rs. 148.64 crore. The nature of business dealt by these dealers are indicated below:</p> <ul style="list-style-type: none"> <li>• Four in Automobiles with tax effect of Rs. 38.79 crore.</li> <li>• Three in Hill produce with tax effect of Rs. 15.02 crore.</li> <li>• Three in Fast Moving Consumer Goods with tax effect of Rs. 11.69 crore.</li> <li>• Fifteen in multiple commodities with tax effect of Rs. 169.39 crore.</li> </ul> <p>Audit noticed that M/s. Indian Oil Corporation, M/s Concorde Motors India Ltd of Special Circle II Ernakulam, M/s Hindustan Unilever Limited of Special Circle Mattancherry and National Handloom Development Corporation Ltd. of CTO, II Circle, Kannur repeated the default for three years.</p>	<p><b>1. Pest Control (India) Pvt.Ltd.</b>  <u>32070287182/2012-13</u>  <u>CTO, Special Circle I,</u>  <u>Ernakulam</u></p> <p>Considering the audit objection, the assessment has been completed as per this office proceedings No.32070287182/2012-13 dated 20.11.2015 creating additional demand of Rs. 87,75,552/- (VAT) and Rs.28,08,178/- (Interest) respectively. The balance amount is under RR.</p> <p>The assessee filed an appeal against this order before the Deputy Commissioner (Appeals), Ernakulam, and the Deputy Commissioner (Appeals) Ernakulam has stayed the order vide their order no. KVATA-2558/2015.</p> <p>The assessment for 2012-13 was completed incorporating the findings of the Accountant General. Aggrieved by the order, the appellant filed appeal before the 1<sup>st</sup> appellate authority against the amount of fumigation charges as receipt from works contract. This was allowed by the appellate authority with a direction to reduce the labour portion from the fumigation charges received and assess the rest of the portion as goods consumed in the process. Notice have been issued to the party to ascertain the labour portion. As soon as it is ascertained, modified order will be issued and will be intimated.</p>

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 3 Sl.No.3	<p>As per Rule 10 of the KVAT Rules, 2005, the allowable deductions from local sale of taxable goods are (1) sale of goods to units in Special Economic Zone (SEZ) (2) sale to his agent or principal (3) sale of medicines purchased on invoices in Form 8H.</p> <p>Audit found that in case of 25 out of 42 dealers whose returns scrutinised in nine assessment circles, the assessees availed exemption of turnover of Rs. 671.45 crore from their local sales turnover without mentioning the nature of exemption. Since no exemption is allowable from the local sales of a dealer under the Act other than those mentioned above, the exemption availed was not in order. However, the assessing authority accepted the returns without assessing the irregular exemptions. This resulted in short levy of tax including interest under Section 31(5) and penalty under Section 67 of Rs. 234.89 crore (Appendix VI). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s Indian Oil Corporation of Special Circle II Ernakulam was the biggest defaulter with tax effect of Rs. 148.64 crore. The nature of business dealt by these dealers are indicated below:</p> <ul style="list-style-type: none"> <li>• Four in Automobiles with tax effect of Rs. 38.79 crore.</li> <li>• Three in Hill produce with tax effect of Rs. 15.02 crore.</li> <li>• Three in Fast Moving Consumer Goods with tax effect of Rs. 11.69 crore.</li> <li>• Fifteen in multiple commodities with tax effect of Rs. 169.39 crore.</li> </ul> <p>Audit noticed that M/s. Indian Oil Corporation, M/s Concorde Motors India Ltd of Special Circle II Ernakulam, M/s</p>	<p><u>3. Ashok Leyland Ltd. 32071200174/2013-14</u> <u>CTO, Special Circle I, Ernakulam</u></p> <p>M/s. Ashok Leyland Ltd bearing TIN 32070200174 is a registered dealer under KVAT ACT bearing Tin 32070200174., deals with the sale of Motor Vehicle, vessels and Automobile spare parts etc. During the year 2013-14 they had filed the annual return u/s 21 of KVAT ACT, discloses total turnover of RS. 143412347387/- and Taxable turnover Of Rs. 339145919/- and claim an exemption pf Rs. 20888193/- leads to the audit objection.</p> <p><u>Calculation of Short levy of Tax as per audit</u></p> <p>Exemption Claimed Rs .20888193/- Tax DUE @14.5% Rs. 3028788/- Interest DUE Rs. 424030/- Total tax and Interest due Rs. 3452818/- Penalty double the rate of Taxu/s 67 (1) of the act is also be leviable for the irregular claim of exemption. Maximum penalty leviable worked out Rs. 6057576/-.</p> <p>As per Rule 10 of KVAT act, no exemption is allowable from the local sales of a dealer except specified under Sale to SEZ, Sales to his agent, sale of medicines purchased with invoice in Form 8H. The dealer could not proved the exempted with supporting documents .</p> <p>Hence a notice u/s 25(1) dated 12.08.2015 had been issued to the dealer and the assessment as per the audit objections had been completed vide order dated 30.11.2015 discloses total tax due Rs.30,28,788/- and interest Rs.6,05,758/-. The dealer filed appeal before Hon'ble High Court and as per WP(C)11030/2016 DATED 12.01.2016 the said assessment order is quashed for fresh assessment. In Order to comply the directions of WP© for fresh assessment, a notice dated 07.07.2018 had been issued to the dealer and they filed reply dated 19.01.2020 with the invoice wise breakup of local sales alleged to</p>

	<p>Hindustan Unilever Limited of Special Circle Mattancherry and National Handloom Development Corporation Ltd. of CTO, II Circle, Kannur repeated the default for three years.</p>	<p>be not accounted in the return. All the purchases and sales were accounted and paid Rs. 3,02,36,699/- as VAT. Considering the reply a revised notice issued to the dealer dated 21.01.2020 and 16.03.2020 for difference in interstate purchase turnover proposing a balance taxable turnover of Rs. 1,97,22,509.00. The dealer has not respond to the notice.</p> <p>The original Assessment and the other actions were done by the legacy office of Assistant Commissioner Special circle 1 Ernakulam. As per notification number CT/7520/22/07.01.2023 the file was transferred and present proper officer issued notice dated 22.06.2023 to the dealer for personal hearing, to comply the directions of Hon'ble High court.</p>
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Para No.	Gist of the case	Present position
2.4.7.6 Bullet 3 Sl.No.4	<p>As per Rule 10 of the KVAT Rules, 2005, the allowable deductions from local sale of taxable goods are (1) sale of goods to units in Special Economic Zone (SEZ) (2) sale to his agent or principal (3) sale of medicines purchased on invoices in Form 8H.</p> <p>Audit found that in case of 25 out of 42 dealers whose returns scrutinised in nine assessment circles, the assessees availed exemption of turnover of Rs. 671.45 crore from their local sales turnover without mentioning the nature of exemption. Since no exemption is allowable from the local sales of a dealer under the Act other than those mentioned above, the exemption availed was not in order. However, the assessing authority accepted the returns without assessing the irregular exemptions. This resulted in short levy of tax including interest under Section 31(5) and penalty under Section 67 of Rs. 234.89 crore (Appendix VI). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s Indian Oil Corporation of Special Circle II Emakulam was the biggest defaulter with tax effect of Rs. 148.64 crore. The nature of business dealt by these dealers are indicated below:</p> <ul style="list-style-type: none"> <li>• Four in Automobiles with tax effect of Rs. 38.79 crore.</li> <li>• Three in Hill produce with tax effect of Rs. 15.02 crore.</li> <li>• Three in Fast Moving Consumer Goods with tax effect of Rs. 11.69 crore.</li> <li>• Fifteen in multiple commodities with tax effect of Rs. 169.39 crore.</li> </ul> <p>Audit noticed that M/s. Indian Oil Corporation, M/s Concorde Motors India Ltd of Special Circle II Ernakulam, M/s Hindustan Unilever Limited of Special Circle Mattancherry and National Handloom Development Corporation Ltd. of CTO, II Circle, Kannur repeated the default for three years.</p>	<p><b>4. Indian Oil Corporation Ltd.</b>  <u>32070300862/2011-12</u>  <u>CTO, Special Circle II,</u>  <u>Ernakulam</u></p> <p>The audit objection in this case is that the assessees availed exemption of turnover from their local sales turnover without mentioning the nature of exemption. Though the exemption availed were not in order, the assessing authority accepted the returns without assessing the irregular exemptions which resulted in a short levy of tax.</p> <p>The issue raised in the audit is that certain turnover has been exempted without mentioning the nature of exemption. Accordingly the assessing authority informed that the said turnover is based on High sea Sales and the audit wing sustained the objection in 25(1) dated 26.09.2016 incorporating the issue of High Sea Sales in the absence of documentary evidence. On the receipt of this notice, the assessee preferred writ amendment Petition and obtained stay of further proceedings vide order in IA16625/2016 in WP(C) 11205/2016 dated 27.10.2016.</p> <p>Notice Under Section 25(1) of the KVAT ACT 2003 dated 26.09.2016 duly served on 21.10.2016 to the dealer, mentioning the defect in the C&amp;AG report ie., "The assessee has conceded Rs.194,02,90,266/- in Audited Form 13A statement, which is claimed as High-sea sales". This notice has been stayed by Hon'ble Highcourt of Kerala vide WP(C) 11205/16 . The case is still pending with Hon'ble High court of Kerala.</p>

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 3 Sl.No.7	<p>As per Rule 10 of the KVAT Rules, 2005, the allowable deductions from local sale of taxable goods are (1) sale of goods to units in Special Economic Zone (SEZ) (2) sale to his agent or principal (3) sale of medicines purchased on invoices in Form 8H.</p> <p>Audit found that in case of 25 out of 42 dealers whose returns scrutinised in nine assessment circles, the assessees availed exemption of turnover of Rs. 671.45 crore from their local sales turnover without mentioning the nature of exemption. Since no exemption is allowable from the local sales of a dealer under the Act other than those mentioned above, the exemption availed was not in order. However, the assessing authority accepted the returns without assessing the irregular exemptions. This resulted in short levy of tax including interest under Section 31(5) and penalty under Section 67 of Rs. 234.89 crore (Appendix VI). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s Indian Oil Corporation of Special Circle II Ernakulam was the biggest defaulter with tax effect of Rs. 148.64 crore. The nature of business dealt by these dealers are indicated below:</p> <ul style="list-style-type: none"> <li>• Four in Automobiles with tax effect of Rs. 38.79 crore.</li> <li>• Three in Hill produce with tax effect of Rs. 15.02 crore.</li> <li>• Three in Fast Moving Consumer Goods with tax effect of Rs. 11.69 crore.</li> <li>• Fifteen in multiple commodities with tax effect of Rs. 169.39 crore.</li> </ul> <p>Audit noticed that M/s. Indian Oil Corporation, M/s Concorde Motors India Ltd of Special Circle II Ernakulam, M/s Hindustan Unilever Limited of Special Circle Mattancherry and National Handloom Development Corporation Ltd. of CTO, II Circle, Kannur repeated the default for three years.</p>	<p><b>7. HCL Infosystems Ltd.</b>  <u>32070312742/2011-12</u>  <u>CTO, Special Circle II,</u>  <u>Ernakulam</u></p> <p>The assessment for the year 2011-12 based on the Audit objection has been completed by the Assistant Commissioner special cicle II on 18-03-2019. The exemption claimed for Rs.6238609/- without documentary evidences has assessed to tax at 12.5% and interest. As per KVATA 1403/2019 filed by the assessee, the appellate authority directed to verify the claim of labour contract of Rs.124,84100 and if the claim is proved, directed to allow the exemption on the 50% assessed of Rs.6238609. As per the direction in KVATA 1403/2019, Deputy Commissioner ,special circle -II modified the assessment for 2011-12, on 17-08-2021. The assessing authority verified the documents and found that the the entire turnover received were labour charges for which service tax had been remitted. So the amount received is not assessable to tax. Regarding the taxable turnover of AMC , the dealer produced the details of goods transferred in the execution of AMC before the appellate authority. In the return they had remitted tax due on the value of goods amounting to Rs.9979368.12 and remitted tax on it. As per Rule 9(2)(C) of the rules</p>

		where the value of goods transferred in AMC is ascertainable from the accounts of the dealer, the turnover taxable shall be calculated by adding GP to the purchase value. As per the direction of appellate authority , the assessing authority verified the details of goods transferred in the execution of AMC during the year 2011-12, and fixed taxable turnover by adding 7% GP as per rule 9(2)(C on modification of the assessment. And as per the modification, the assessee is in excess of Rs.138704/. Since the modification is based on the rule 9(2)(C) of the KVAT Act & rule , the Audit Objection is not sustainable and hence may be withdrawn .
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Para No.	Gist of the case	Present position
2.4.7.6 Bullet 3 Sl.No.12	<p>As per Rule 10 of the KVAT Rules, 2005, the allowable deductions from local sale of taxable goods are (1) sale of goods to units in Special Economic Zone (SEZ) (2) sale to his agent or principal (3) sale of medicines purchased on invoices in Form 8H.</p> <p>Audit found that in case of 25 out of 42 dealers whose returns scrutinised in nine assessment circles, the assessees availed exemption of turnover of Rs. 671.45 crore from their local sales turnover without mentioning the nature of exemption. Since no exemption is allowable from the local sales of a dealer under the Act other than those mentioned above, the exemption availed was not in order. However, the assessing authority accepted the returns without assessing the irregular exemptions. This resulted in short levy of tax including interest under Section 31(5) and penalty under Section 67 of Rs. 234.89 crore (Appendix VI). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s Indian Oil Corporation of Special Circle II Ernakulam was the biggest defaulter with tax effect of Rs. 148.64 crore. The nature of business dealt by these dealers are indicated below:</p> <ul style="list-style-type: none"> <li>• Four in Automobiles with tax effect of Rs. 38.79 crore.</li> <li>• Three in Hill produce with tax effect of Rs. 15.02 crore.</li> <li>• Three in Fast Moving Consumer Goods with tax effect of Rs. 11.69 crore.</li> <li>• Fifteen in multiple commodities with tax effect of Rs. 169.39 crore.</li> </ul> <p>Audit noticed that M/s. Indian Oil Corporation, M/s Concorde Motors India Ltd of Special Circle II Ernakulam, M/s Hindustan Unilever Limited of Special Circle Mattancherry and National Handloom Development Corporation Ltd. of CTO, II Circle, Kannur repeated the default for three years.</p>	<p><b><u>12. Associated Chemicals</u></b>  <b><u>Industry, 32070390794/2012-13</u></b>  <b><u>CTO, Special Circle II,</u></b>  <b><u>Ernakulam</u></b></p> <p>As per annual return for the year 2012-13 in Form 10 the total turnover of the assessee is Rs.11,56,98,668.75 and the exemption claimed is Rs.1209430/- and the taxable turnover is Rs.114489238.75. As per the self assessment made by the dealer the exemption claimed is only Rs.1209430/-.</p> <p>Pre-assessment notice was issued by the assessing authority to the dealer based on this defect and also for certain other irregularities. On receipt of the notice, the dealer filed reply with all documentary evidences. Claim of exemption was on the sales effected to Special Economic Zone. The dealer produced Form 43 for the entire amount and the same has been accepted. Assessment was completed vide order Order No.320703 02223/2012-13 dated 23.09.2016 and the exemption was proved with Form 43. The demand in the order was paid vide chalan 143/10.11.2016</p> <p>Copy of assessment order dated 23.09.2016 and Annual return submitted for verification as Enclosure. M/s. Associated chemicals bearing TIN 32070302223 dealing commodities such as Chemicals coming under 3<sup>rd</sup> schedule (Industrial Inputs in List A) Paints, Polishes Enamels, Lacquers. As per section 6(7)(c) sales of Medicines and Drugs falling under the 3<sup>rd</sup> schedule, in</p>

	respect of which tax had been paid under the Kerala General sales Tax Act, 1963 ( 15 of 1963) and which are held as opening stock on the first day of April 2005 shall, subject to condition and restrictions, as may be prescribed , be exempted from tax.
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Para No.	Gist of the case	Present position
2.4.7.6 Bullet 3 Sl.No.21	<p>As per Rule 10 of the KVAT Rules, 2005, the allowable deductions from local sale of taxable goods are (1) sale of goods to units in Special Economic Zone (SEZ) (2) sale to his agent or principal (3) sale of medicines purchased on invoices in Form 8H.</p>	<p><b>21. V-Star Creations Pvt Ltd.</b>  <u>32070438652/2013-14</u>  <u>CTO, Special Circle III,</u>  <u>Ernakulam</u></p>

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 4 Sl.No.8	<p>As per Section 6(7)(b) of the KVAT Act, 2003, sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any SEZ in the State for setting up the unit or use in the manufacture of other goods shall, subject to such conditions or restrictions, as may be prescribed, shall be exempted from tax.</p> <p>Audit found that eight out of 14 dealers whose returns were scrutinised in four assessment circles, under Deputy Commissioner, Ernakulam, the assessees availed exemption of turnover of Rs. 108.97 crore treating it as the sales to units situated in SEZ. Audit found that the goods sold were surgical equipments, furniture, computers, electronic goods, petroleum, furnace oil, etc. Since these goods do not fall under the exempted category of goods as mentioned in Section 6(7)(b), the exemption availed was irregular. Lack of scrutiny by assessing officers even though the data was available in KVATIS resulted in short levy of tax including interest and penalty works out to Rs. 43.80 crore (Appendix VII).</p> <p>Audit observed that amongst the defaulters, M/s Bharat Petroleum Corporation Ltd. of Special Circle II, Ernakulam was the biggest defaulter with tax effect of Rs. 15.60 crore.</p> <p>Audit noticed that M/s Bharat Petroleum Corporation Ltd and M/s. Blue Star Limited of Special Circle II, Ernakulam repeated the default for three years.</p>	<p><b>8. SFO Technologies Digital Pvt Ltd.</b>  <u>32070415803/2011-12</u>  <u>CTO, Special Circle III, Ernakulam</u></p> <p>The final assessment in respect of the dealer was completed vide this office proceedings no. 32070415803/2011-12 dated 23-05-2019 by incorporating the defects pointed out in the audit report that the irregular exemption by way of sales to SEZ claimed in the returns. The total Turnover of Rs.1,37,42,64,061.00 (without allowing the exemption claimed by the dealer for Rs. 20,38,10,782/- as sales to SEZ which is not proved with requisite forms. Tax due @ 12.5% - Rs. 4,11,01,348/- Cess due @ 1% - Rs. 4,11,013/- Interest - Rs. 3,57,00,631/- The dealer filed WPC-19339/2019 before the Hon'ble High Court of Kerala. JC (Appeals) vide order No. KVATA 105/2023 dtd 22.08.2023 directed to modify the original assessment order based on certain other aspects. Accordingly assessment has been modified vide order No 32070415803/11-12 dtd 20.11.2023 the dues outstanding are as follows. Tax=8233955/-, Interest= Rs 1527537/- RRC issued to DC(Arrear Recovery) vide No. 1/2024 dt. 06/01/2024.</p> <p>As per the original assessment order dated 23.05.2019 the turnover conceded = 1,24,92,64,061.00 Add lump sum amount for the defect No. 1 = 12,50,00,000.00 Total turn over fixed = 1,37,42,64,061.00 Less turnover self assessed = 4,96,380.00 Less turnover assessed seperately under CST Act = 1,04,49,56,897.00 Balance taxable turnover = 32,88,10,784.00 Tax due @ 12.5%</p>

223

	= 4,11,01,348.00	
Cess	due	1%
= 4,11,013.00		
Total	due	
= 4,15,12,361.00		
Interest	due	
= 3,57,00,631.00		
As per the Appellate Order KVATA 105/2023 dated 22.08.2023 of the Joint Commissioner (Appeals), Ernakulam ordered to delete the Turnover addition of Rs.12,50,00,000/- and assessment is to be		
Reconsidered on the basis of actual tax rate applicable to goods sold. The original assessment order was modified to the extent of appellate order dated 20.11.2023 and the calculation is as stated below.		
Total	turnover	Fixed
= 1,37,42,64,061		
Less : Turnover self assessed		
= 4,96,380		
Less : Turnover separately assessed in CST Act		=
1,04,49,56,897		
Less: Turnover deleted by JC (Appeals)		=
12,50,00,000		
Balance	taxable	turnover
= 20,38,10,784		
Tax	due	@4%
= 81,52,431		
Cess due @1% on Rs. 8152431		
= 81,524		
Total	tax	due
= 82,33,955		
Tax		paid
= Nil		
Balance	Tax	due
= 82,33,955		
Interest from 04/2012 to 11/2023 (140%)		
= 1,15,27,537		
The Tax rate as per the original Order is modified from 12.5 % to 4%. Hence the demand reduced		

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 4 Sl.No.9	<p>As per Section 6(7)(b) of the KVAT Act, 2003, sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any SEZ in the State for setting up the unit or use in the manufacture of other goods shall, subject to such conditions or restrictions, as may be prescribed, shall be exempted from tax.</p> <p>Audit found that eight out of 14 dealers whose returns were scrutinised in four assessment circles, under Deputy Commissioner, Ernakulam, the assessees availed exemption of turnover of Rs. 108.97 crore treating it as the sales to units situated in SEZ. Audit found that the goods sold were surgical equipments, furniture, computers, electronic goods, petroleum, furnace oil, etc. Since these goods do not fall under the exempted category of goods as mentioned in Section 6(7)(b), the exemption availed was irregular. Lack of scrutiny by assessing officers even though the data was available in KVATIS resulted in short levy of tax including interest and penalty works out to Rs. 43.80 crore (Appendix VII).</p> <p>Audit observed that amongst the defaulters, M/s Bharat Petroleum Corporation Ltd. of Special Circle II, Ernakulam was the biggest defaulter with tax effect of Rs. 15.60 crore.</p> <p>Audit noticed that M/s Bharat Petroleum Corporation Ltd and M/s. Blue Star Limited of Special Circle II, Ernakulam repeated the default for three years.</p>	<p><b>9. SFO Technologies Digital Pvt Ltd.</b>  <b>32070415803/2012-13 CTO, Special</b>  <b>Circle III, Ernakulam</b></p> <p>The assessment in respect of M/s. SFO Technologies Digital (P) Ltd for the year 2012-13 has been completed vide order No. 32070415803/2012-13 dated 01-07-2019 by incorporating the defects pointed out in the audit report that the irregular exemption by way of sales to SEZ claimed in the returns amounted to Rs. 3.26 crores. Additional demand created of Rs. 85,67,590/. Interest calculated is of Rs. 64,25,693/-. The dealer filed WPC-24212/2019 before the Hon'ble High Court of Kerala. Appellate Authority [JC(Appeals)] vide order No. KVATA 108/2023 dtd 22.08.2023 directed to modify the Original assessment order based on certain other aspects. Accordingly assessment has been modified vide order No 32070415803/12-13 dtd 20.11.2023 the dues outstanding are as follows. Tax=68663/-, Interest= Rs 87889/-. RRC issued to DC(Arrear Recovery) vide No. 2/2024 dt. 06/01/2024. As per the original assessment order dated 01.07.2019 the turnover conceded = 62,09,03,734</p> <p>Add lump sum amount for the defect No.1 = 6,20,90,374</p> <p>Add turnover for defect No. 5 = 2,45,879</p> <p>Total turn over fixed = 68,32,39,987</p> <p>Less turnover self assessed = 1,19,068</p> <p>Less turnover assessed separately under CST Act = 61,96,57,287</p> <p>Balance Taxable Turnover = 6,34,63,632</p> <p>Tax due @ 13.5% = 85,67,590</p> <p>Interest due</p>

2025

= 64,25,693

As per the Appellate Order KVATA 108/2023 dated 22.08.2023 of the Joint Commissioner (Appeals),

Ernakulam ordered to delete the Turnover addition of Rs.62090374/- and assessment is to be

reconsidered on the basis of actual tax rate applicable to goods sold. The original assessment order

Was modified to the extent of appellate order dated 22.08.2023 and the calculation is as stated below.

Total	turnover	Fixed
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= 68,32,39,987

Less : Turnover self assessed

= 1,19,068

Less : Turnover separately assessed in  
CST Act

= 61,96,57,287

Less: Turnover deleted by JC  
(Appeals)

= 6,20,90,374

Balance	taxable	turnover
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= 13,73,258

Tax	due	@ 5%
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= 68,663

Tax

= Nil

Balance	Tax	due
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= 68,663

Interest from 04/2013 to 11/2023 (128%)

= 87,889

The Tax rate as per the original Order is modified from 13.5% to 5%. Hence the demand reduced

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 4 Sl.No.10	<p>As per Section 6(7)(b) of the KVAT Act, 2003, sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any SEZ in the State for setting up the unit or use in the manufacture of other goods shall, subject to such conditions or restrictions, as may be prescribed, shall be exempted from tax.</p> <p>Audit found that eight out of 14 dealers whose returns were scrutinised in four assessment circles, under Deputy Commissioner, Emakulam, the assessees availed exemption of turnover of Rs. 108.97 crore treating it as the sales to units situated in SEZ. Audit found that the goods sold were surgical equipments, furniture, computers, electronic goods, petroleum, furnace oil, etc. Since these goods do not fall under the exempted category of goods as mentioned in Section 6(7)(b), the exemption availed was irregular. Lack of scrutiny by assessing officers even though the data was available in KVATIS resulted in short levy of tax including interest and penalty works out to Rs. 43.80 crore (Appendix VII).</p> <p>Audit observed that amongst the defaulters, M/s Bharat Petroleum Corporation Ltd. of Special Circle II, Ernakulam was the biggest defaulter with tax effect of Rs. 15.60 crore.</p> <p>Audit noticed that M/s Bharat Petroleum Corporation Ltd and M/s. Blue Star Limited of Special Circle II, Ernakulam repeated the default for three years.</p>	<p><b>10. Safe Care Rubber produce pvt Ltd</b>  <b>32070471906/2011-12</b>  <b>CTO,II Circle Kalamassery</b></p> <p>Section. 6(7)(b) of the KVAT Act deals with Sales to Special Economic Zone and payment of tax exempted at the point of sales into SEZ. The said section itself is clear that sales of industrial inputs for the manufacture of Goods to Industrial units or even the sale of building materials, plant and machinery etc. for a developer to setting up a unit, such sales be exempted from tax.</p> <p>The purchaser M/s. Safe shield India Rubber Product (P) Ltd is a manufacturing industrial unit situated in CSEZ. For manufacturing Goods, License has been issued to Safe shield India Rubber Products Pvt Ltd. by Government of India, Ministry of Commerce.</p> <p>The normal functioning of the industrial unit (Safe shield India Rubber Products Pvt. Ltd) are Chlorination, Drying, Reversing, Final Drying, Inspection, Packing and Sterilization of the powder coated normal gloves, purchased from Safe Care Rubber Products (P) Ltd and from various Domestic Tariff Area Dealers and the powder free gloves are manufactured through different industrial process at Safe shield India Rubber Products Pvt. Ltd. This is already certified by the customs department in the shipping bill under a separate manufacturing license.</p> <p>Sales to Special Economic Zone is exempted as per section.6(7)(b) of the KVAT Act and it was clearly observed by the Hon'ble Kerala High Court in WA No.1476/2019 [Govt. of Kerala Vs. Waves Electronics (P) Ltd]. Purchase of Industrial inputs by an Industrial unit situated at SEZ is fully exempted as per the above judgment. Goods involved in the instant case are eligible for exemption as per section 6(7)(b) of the KVAT Act. Hence the Audit objection raised is not sustainable and the same is requested to be dropped.</p>

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 4 Sl.No.13	<p>As per Section 6(7)(b) of the KVAT Act, 2003, sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any SEZ in the State for setting up the unit or use in the manufacture of other goods shall, subject to such conditions or restrictions, as may be prescribed, shall be exempted from tax.</p> <p>Audit found that eight out of 14 dealers whose returns were scrutinised in four assessment circles, under Deputy Commissioner, Ernakulam, the assessees availed exemption of turnover of Rs. 108.97 crore treating it as the sales to units situated in SEZ. Audit found that the goods sold were surgical equipments, furniture, computers, electronic goods, petroleum, furnace oil, etc. Since these goods do not fall under the exempted category of goods as mentioned in Section 6(7)(b), the exemption availed was irregular. Lack of scrutiny by assessing officers even though the data was available in KVATIS resulted in short levy of tax including interest and penalty works out to Rs. 43.80 crore (Appendix VII).</p> <p>Audit observed that amongst the defaulters, M/s Bharat Petroleum Corporation Ltd. of Special Circle II, Ernakulam was the biggest defaulter with tax effect of Rs. 15.60 crore.</p> <p>Audit noticed that M/s Bharat Petroleum Corporation Ltd and M/s. Blue Star Limited of Special Circle II, Ernakulam repeated the default for three years.</p>	<p><b>13. Outsource Partners International Pvt Ltd</b> <u>32071382201/2013-14</u> <b>CTO,II Circle Kalamassery</b></p> <p>The assessee is engaged in providing Information technology enabled service, Accounting service of overseas outsourced work. The assessee is no way dealing with any trading activities in the exclusive special economic zone by way of purchase and sales, except for purchase as goods capitalised in the books of accounts. During the year 2013-14, the assessee has filed annual returns furnishing total turnover of Rs. 2,62,98,453.52 and taxable turnover of Rs. 2,48,756.00/- with a output tax demand of Rs. 1243/- ( sale of used motor vehicles ). The assessing authority on verifying the annual returns filed for the year 2013-14 noticed irregular exemption claimed on sale of health drinks for Rs. 17,83,090/- . The assessee also claimed works contract turnover of Rs. 2,29,22,571/- . The assessing authority has completed the assessment under sec 25(1)of the KVAT Act 2003</p> <p>The assessment was completed fixing a escaped Turnover of Rs. 6,28,74,746.52 creating a additional tax demand of Rs. 72,95,579.50 . Aggrieved by the order of the assessing authority the assessee preferred appeal before the Deputy Commissioner (Appeals) Ernakulam. The main contention raised by the assessee was an error apparent made by the tax consultant where the purchase of capital assets by the assessee was shown as sales in order to nullify the stock. The assessee has sought a clarification of the matter before the assessing authority and submitted a copy of the request made before the assessing authority.</p> <p>The assessee has claimed exemption of Rs. 2,29,22,571/- on sales to CSEZ units in the annual return filed for the year 2013-14. The assessee has submitted Audited financial statements before the appellate authority to prove their genuineness and also produced bank accounts to prove the claim of income is from service. The assessee has also produced certificate prepared by an independent Chartered</p>

222

Accountant based on the verification of the books of accounts of the appellant that the operational turnover of the appellant consist of service income only. Further, the assessee has earned certain miscellaneous income from scrap sales which has been declared in the KVAT return and tax due has been discharged.

The assessee has contented that goods / services incurred for building interior infrastructure for Rs. 2,29,22,571/- was actually services secured for interior work and civil work of the Unit in SEZ.

The assessee has contended that turnover of Rs. 2,94,60,039/- alleged as inter state purchase suppression was actual purchase of capital assets and the purchase has been duly accounted in the books of accounts under the head Capital assets and also submitted certificate of independent chartered Accountant to prove the genuineness of transaction. The assessee has submitted that the interior work of the office was done by the works contractors who had used the KVAT registered TIN number of the assessee and raised invoices in the name of assessee which has been duly accounted and paid to the contractors.

The assessment completed was modified as per the direction of the appellate authority and also verifying the books of accounts and evidences produced by the assessee to prove the genuineness. It is also reported that the assessee being a information technology service provider and not a trader / manufacturer of goods. The assessee has reported the turnover covered for purchase of raw materials including iron and steel products, floor tiles, electrical goods for towards construction of office premises and machinery including computer systems for their use in office. The health drinks as per the sales was not sales but towards cost incurred on purchase of health drinks from M/s. Coffee day Global (TIN No. 32070229435 ) which is also accounted in the books of accounts and also uploaded in the KVATIS in the monthly returns filed. . On verification of the sales details, it is noticed that there was no B2B sales or B2C Sales effected by the assessee.

The observation of the comptroller General towards short levy is only on the basis

229

	<p>of incorrect return filed by the assessee. Even though assessed the turnover for escaped turnover, the assessee preferred appeal before the Deputy Commissioner (Appeals) Ernakulam. Based on the directions contained in the appellate order, the assessment completed under Sec 25(1) of the KVAT Act 2003 was modified with a NIL demand. .</p> <p>The turnover involved is only purchase of Capital Asset which is duly accounted in the books of accounts. The assessee is a service provider in information technology enabled service. The sales reported mistakenly was actually goods purchased for their office use which is accounted in the books of accounts.</p> <p>Assessee is a service provider in Information Technology enabled services. The sales reported is by mistake. The assessee has also produced audited financial statements, bank accounts, certificate prepared by an independent Chartered Accountant based on the verification of the books of accounts of the appellant that the operational turnover of the appellant consist of service income only. The assessee has contented that goods / services incurred for building interior infrastructure for Rs. 2,29,22,571/- was actually services secured for interior work and civil work of the Unit in SEZ.</p> <p>Actually the goods purchased for office use which is accounted in the the books of accounts. The health drinks as per the sales was not sales but towards cost incurred on purchase of health drinks from M/s. Coffee day Global (TIN No. 32070229435 ) which is also accounted in the books of accounts and also uploaded in the KVATIS in the monthly returns filed.</p> <p>Based on the directions contained in the appellate order, the assessment completed under Sec 25(1) of the KVAT Act 2003 was modified with a NIL demand. As per annual return ,the dealer had not availed any ITC for the same.</p>
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Para No.	Gist of the case	Present position
2.4.7.6 Bullet 4 Sl.No.14	<p>As per Section 6(7)(b) of the KVAT Act, 2003, sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any SEZ in the State for setting up the unit or use in the manufacture of other goods shall, subject to such conditions or restrictions, as may be prescribed, shall be exempted from tax.</p> <p>Audit found that eight out of 14 dealers whose returns were scrutinised in four assessment circles, under Deputy Commissioner, Ernakulam, the assessees availed exemption of turnover of Rs. 108.97 crore treating it as the sales to units situated in SEZ. Audit found that the goods sold were surgical equipments, furniture, computers, electronic goods, petroleum, furnace oil, etc. Since these goods do not fall under the exempted category of goods as mentioned in Section 6(7)(b), the exemption availed was irregular. Lack of scrutiny by assessing officers even though the data was available in KVATIS resulted in short levy of tax including interest and penalty works out to Rs. 43.80 crore (Appendix VII).</p> <p>Audit observed that amongst the defaulters, M/s Bharat Petroleum Corporation Ltd. of Special Circle II, Ernakulam was the biggest defaulter with tax effect of Rs. 15.60 crore.</p> <p>Audit noticed that M/s Bharat Petroleum Corporation Ltd and M/s. Blue Star Limited of Special Circle II, Ernakulam repeated the default for three years.</p>	<p><b>14. Honey Automation India Ltd</b>  <u>32072013472/2012-13</u>  <u>CTO(WC), Ernakulam</u></p> <p>The assessment of the above dealer for the year 2012-13 has been completed vide order no.32072013472/dt.15-7-14. The short levy of tax pointed out by the Audit is made good by completing the assessment for the above year creating an additional demand of Rs. 24.17 lakhs. The amount was under RR before the Revenue authorities.</p> <p>The assessment was completed by the competent authority incorporating the defect pointed out by the AG. Consequent on receipt of assessment order the dealer preferred an appeal and the Appellate authority -Joint Commissioner (Appeals) -III,Ernakulam disposed the appeal as "Modified" vide order KVATA-1227/2013,1228/2013 &amp; 666/2016 dated 23.03.2020.The Appellate authority on the basis of work order and statutory document in Form.43, found that the materials supplied by the assessee were used by M/s. Tata Consultancy Services Ltd. for setting up their unit in SEZ. Hence the claim of exemption by the assessee on the basis of Section 6(7)(b) of KVAT Act 2003 is well in order and direction was issued to modify the assessment.</p> <p>Modification pending based on appellate order dated 23.03.2020. (JC Appeals, Ernakulam). Intimated the dealer for producing evidences.(Form 43 produced by the dealer to prove supply to SEZ and its eligibility of exemption). The Commodities are purchase of Industrial Inputs,Plant &amp; Machinery (Including Components)/Spares , tools and consumables(other than petroleum products covered by fourth schedule to the KVAT Act)</p>

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 4 SI.No.15	<p>As per Section 6(7)(b) of the KVAT Act, 2003, sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any SEZ in the State for setting up the unit or use in the manufacture of other goods shall, subject to such conditions or restrictions, as may be prescribed, shall be exempted from tax.</p> <p>Audit found that eight out of 14 dealers whose returns were scrutinised in four assessment circles, under Deputy Commissioner, Ernakulam, the assessees availed exemption of turnover of Rs. 108.97 crore treating it as the sales to units situated in SEZ. Audit found that the goods sold were surgical equipments, furniture, computers, electronic goods, petroleum, furnace oil, etc. Since these goods do not fall under the exempted category of goods as mentioned in Section 6(7)(b), the exemption availed was irregular. Lack of scrutiny by assessing officers even though the data was available in KVATIS resulted in short levy of tax including interest and penalty works out to Rs. 43.80 crore (Appendix VII).</p> <p>Audit observed that amongst the defaulters, M/s Bharat Petroleum Corporation Ltd. of Special Circle II, Ernakulam was the biggest defaulter with tax effect of Rs. 15.60 crore.</p> <p>Audit noticed that M/s Bharat Petroleum Corporation Ltd and M/s. Blue Star Limited of Special Circle II, Ernakulam repeated the default for three years.</p>	<p><b>15. Honey Automation India Ltd 32072013472/2013-14 CTO(WC), Ernakulam</b></p> <p>The assessment of the above dealer for the years 2013-14 has been completed vide order no.32072013472/dtd. 24-11-15 respectively. The short levy of tax pointed out by the Audit is made good by completing the assessment for the above year creating an additional demand of Rs. 66.85 lakhs. The amount was pending under RR.</p> <p>The assessment was completed by the competent authority incorporating the defect pointed out by the AG. Consequent on receipt of assessment order the dealer preferred an appeal and the Appellate authority -Joint Commissioner (Appeals) -III,Ernakulam disposed the appeal as "Modified" vide order KVATA-1227/2013,1228/2013 &amp; 666/2016 dated 23.03.2020. The Appellate authority on the basis of work order and statutory document in Form.43, found that the materials supplied by the assessee were used by M/s. Tata Consultancy Services Ltd. for setting up their unit in SEZ. Hence the claim of exemption by the assessee on the basis of Section 6(7)(b) of KVAT Act 2003 is well in order and direction was issued to modify the assessment . Modification pending based on appellate order dated 23.03.2020. (JC Appeals, Ernakulam). Intimated the dealer for producing</p>

		evidences. (Form 43 produced by the dealer to prove supply to SEZ and its eligibility of exemption), The Commodities are purchase of Industrial Inputs,/Plant & Machinery (Including Components)/Spares, tools and consumables(other than petroleum products covered by fourth schedule to the KVAT Act)
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Para No.	Gist of the case	Present position
<b>2.4.7.6</b> <b>Bullet 5</b> <b>Sl.No.18</b>	<p>As per Rule 10 of the KVAT Rules, the dealer is entitled to deduct the turnover 2005 if the turnover is supported by Form 43, Form 25F, Form 8H invoices, Form E1 or the documents supporting high sea sales as the case may be.</p> <p>Audit observed that 22 out of 37 dealers in 12 assessment circles exempted a turnover of Rs. 1,007.71 crore by claiming that the goods were sold (1) to a unit situated in SEZ, (2) through auction (3) as tax previously suffered on its MRP. However, no statutory documents such as Form 43, Form 25F or Form 8H, were produced to prove their claims. Audit found that the assessing officers were not completing the assessments, even in the absence of such statutory declarations. In the absence of such statutory forms, the exemption claimed was not in order resulting in short levy of tax including interest u/s 31(5) and penalty u/s 67 amounting to Rs. 151.38 crore (Appendix VIII). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s. JMJ Trader of Special Circle, Kottayam was the biggest defaulter with tax effect of Rs. 51.37 crore. The nature of business dealt by these dealers are as follows:</p> <ul style="list-style-type: none"> <li>• Seven in Medicine with tax effect of Rs. 40.79 crore.</li> <li>• Five in Tea auction with tax effect of Rs. 50.70 crore.</li> <li>• Six were sellers to Special Economic Zone with tax effect of Rs. 58.55 crore.</li> </ul> <p>Four were sub contractors with tax effect of Rs. 1.34 crore.</p>	<p><b>18. Amrita Enterprises (P), Ltd</b>  <u>32010108524/2011-12</u>  <u>CTO, Special Circle,</u>  <u>Thiruvananthapuram</u></p> <p>Assessment completed as per order dated 25.03.2019. Creating additional demand Rs. 5,18,463/- As per the Appellate order No.VATAK 488/19 dtd 23.02.2020 the assessment was modified modified on 8.12.2021 with a NIL demand.</p> <p>According to the Audit objections the assessment was initially completed vide order dated 28/03/2019 creating additional demand Rs.2,95,134/- (Tax) and Rs.2,47,913/- (interest) from Deputy Commissioner (Special Circle) Thiruvananthapuram. Aggrieved by this order the assessee filed appeal before the Joint Commissioner (Appeal) Thiruvananthapuram. As per order VATA K-488/19 dated 23/19/2020, the Joint Commissioner (Appeals) Thiruvananthapuram has modified the disputed assessment.</p> <p>In the light of the modified order Deputy Commissioner (Special Circle), Thiruvananthapuram called for Books of Accounts of the dealer with connected documents for verification. The dealer filed documents such as copy of invoices related to the purchase of capital assets and statement of duplicate purchase of 6(2) in Part "C" of the annual return for verification of purchase of capital goods for Rs.4,12,383.69 and Rs.36,75,218.18 related to 6(2) purchase related in part "A and C" of the annual return. The assessing authority cross checked the purchase list of capital goods accounted and found that Rs.4,12,383.69 related to the capital goods purchase in page 6 &amp; 7 of annual return related and availed ITC and hence the contention in this</p>

		<p>regard accepted by the assessing authority.</p> <p>The assessing authority examined the next contention related to 6(2) purchase with reference to the returns filed and summary of purchase from unregistered dealers included in local purchase not eligible for ITC, and it was confirmed that the 6(2) purchase mentioned in part A of the return was repeated in part C also. Hence, the assessing authority concluded that there was duplication of 6(2) purchase in return. In the above aspects the completed assessment U/s 25 (1) of the KVAT Act for the year 2011-12 was modified as per order dated 08.12.2021. The exemption claimed for Rs.71.95crore as medicine second sales for the year 2011-12 is proved with statutory documents. The dealer has furnished Form.8H invoices for medicine purchased @VAT on MRP as the proof of exemption claimed.</p>
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Para No.	Gist of the case	Present position
<p><b>2.4.7.6</b>  <b>Bullet 5</b>  <b>S L</b>  <b>No.26</b></p>	<p>As per Rule 10 of the KVAT Rules, the dealer is entitled to deduct the turnover 2005 if the turnover is supported by Form 43, Form 25F, Form 8H invoices, Form E1 or the documents supporting high sea sales as the case may be.</p> <p>Audit observed that 22 out of 37 dealers in 12 assessment circles exempted a turnover of Rs. 1,007.71 crore by claiming that the goods were sold (1) to a unit situated in SEZ, (2) through auction (3) as tax previously suffered on its MRP. However, no statutory documents such as Form 43, Form 25F or Form 8H, were produced to prove their claims. Audit found that the assessing officers were not completing the assessments, even in the absence of such statutory declarations. In the absence of such statutory forms, the exemption claimed was not in order resulting in short levy of tax including interest u/s 31(5) and penalty u/s 67 amounting to Rs. 151.38 crore (<b>Appendix VIII</b>). The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s. JMJ Trader of Special Circle, Kottayam was the biggest defaulter with tax effect of Rs. 51.37 crore. The nature of business dealt by these dealers are as follows:</p> <ul style="list-style-type: none"> <li>• Seven in Medicine with tax effect of Rs. 40.79 crore.</li> <li>• Five in Tea auction with tax effect of Rs. 50.70 crore.</li> <li>• Six were sellers to Special Economic Zone with tax effect of Rs. 58.55 crore.</li> </ul> <p>Four were sub contractors with tax effect of Rs. 1.34 crore.</p>	<p><b>26. Outsource Partners International Pvt. Ltd.</b>  <b>32071382201/2013-14</b>  <b>CTO, II Circle I, Kalamassery</b></p> <p>M/s. Outsource Partners International Pvt. Ltd., CEZ, Kakkad is dealing accounting of overseas outsource work. In the annual return for the year 2013-14 in Part A Sales/Disposal, the assessee has shown an amount of Rs. 2,29,22,571/- under works contract. They have also shown the same figure under the head of works contract in Part C of the returns, i.e., Purchases. The assessee is not doing any works contract. The goods purchased are for own use. The same figure is shown in the sales portion in order to tally the stock position. During the year 2013-14, the assessee has filed annual returns furnishing total turnover of Rs. 2,66,99,357.52 and claimed exemption for Rs. 2,60,49,697.52/-. Since the exemption claimed by the dealer was without submitting any statutory documents in support of the claim. Hence notice was issued to the assessee and completed assessment under section 25(1) of the Act, by assessing the escaped turnover of Rs. 6,28,74,746.52/- creating an additional demand of Rs. 72,95,579.50/-.</p> <p>Aggrieved by the order of assessing authority, the assessee preferred appeal before the Deputy Commissioner (Appeals) Ernakulam. Based on the directions contained in the appellate order (Order No. KVATA 3048/2019.dtd 17.12.2019 of The Deputy Commissioner, Ernakulam) and after verifying the books of accounts and evidences produced by the assessee, the assessment was modified as a case of 'NIL' demand.</p> <p>It is reported that the assessee is an information technology service provider providing Information Technology enabled service, accounting service of overseas outsourced work. The assessee is not dealt with any trading activities in the exclusive special economic zone by way of purchase or sales of goods, except for purchase of goods</p>

which were capitalised in the books of accounts. The turnover covered under purchase was raw materials including iron and steel products, floor tiles, electrical goods etc, for the construction of office premises and machineries including computer system for office use. Sales turnover of health drinks conceded in the returns was actually not sales; but towards the cost incurred on purchase of health drinks from M/s. Coffee day Global (TIN No. 32070229435) which was also accounted in the books of accounts and also uploaded in the KVATIS. On verification of the sales details, it is noticed that there was no B2B or B2C sales effected by the assessee.

The assessee is engaged in providing Information technology enabled service, Accounting service of overseas outsourced work. The assessee is no way dealing with any trading activities in the exclusive special economic zone by way of purchase and sales, except for purchase as goods capitalised in the books of accounts. The assessing authority on verifying the annual returns filed for the year 2013-14 noticed irregular exemption claimed on sale of health drinks for Rs. 17,83,090/-. The assessee also claimed works contract turnover of Rs. 2,29,22,571/-. The assessing authority has completed the assessment under sec 25(1) of the KVAT Act 2003

The assessment was completed fixing a escaped Turnover of Rs. 6,28,74,746.52 creating a additional tax demand of Rs. 72,95,579.50 . Aggrieved by the order of the assessing authority the assessee preferred appeal before the Deputy Commissioner (Appeals) Ernakulam. The main contention raised by the assessee was an error apparent made by the tax consultant where the purchase of capital assets by the assessee was shown as sales in order to nullify the stock. The assessee has sought a clarification of the matter before the assessing authority and submitted a copy of the request made before the assessing authority.

The assessee has claimed exemption of Rs. 2,29,22,571/- on sales to CSEZ units in the annual return filed for the year 2013-14. The assessee has submitted Audited financial

statements before the appellate authority to prove their genuineness and also produced bank accounts to prove the claim of income is from service. The assessee has also produced certificate prepared by an independent Chartered Accountant based on the verification of the books of accounts of the appellant that the operational turnover of the appellant consist of service income only. Further, the assessee has earned certain miscellaneous income from scrap sales which has been declared in the KVAT return and tax due has been discharged.

The assessee has contended that goods / services incurred for building interior infrastructure for Rs. 2,29,22,571/- was actually services secured for interior work and civil work of the Unit in SEZ.

The assessee has contended that turnover of Rs. 2,94,60,039/- alleged as inter state purchase suppression was actual purchase of capital assets and the purchase has been duly accounted in the books of accounts under the head Capital assets and also submitted certificate of independent chartered Accountant to prove the genuineness of transaction. The assessee has submitted that the interior work of the office was done by the works contractors who had used the KVAT registered TIN number of the assessee and raised invoices in the name of assessee which has been duly accounted and paid to the contractors.

The assessment completed was modified as per the direction of the appellate authority and also verifying the books of accounts and evidences produced by the assessee to prove the genuineness. It is also reported that the assessee being a information technology service provider and not a trader / manufacturer of goods. The assessee has reported the turnover covered for purchase of raw materials including iron and steel products, floor tiles, electrical goods for towards construction of office premises and machinery including computer systems for their use in office. The health drinks as per the sales was not sales but towards cost incurred on purchase of health drinks from M/s. Coffee

day Global (TIN No. 32070229435 ) which is also accounted in the books of accounts and also uploaded in the KVATIS in the monthly returns filed. . On verification of the sales details, it is noticed that there was no B2B sales or B2C Sales effected by the assessee.

The observation of the comptroller General towards short levy is only on the basis of incorrect return filed by the assessee. Even though assessed the turnover for escaped turnover, the assessee preferred appeal before the Deputy Commissioner (Appeals) Ernakulam. Based on the directions contained in the appellate order, the assessment completed under Sec 25(1) of the KVAT Act 2003 was modified with a NIL demand. .

The turnover involved is only purchase of Capital Asset which is duly accounted in the books of accounts. The assessee is a service provider in information technology enabled service. The sales reported mistakenly was actually goods purchased for their office use which is accounted in the books of accounts.

There is no loss of revenue in this case. Audit observation was on the basis of the incorrect return filed by the assessee. Audit objection is non sustainable. Hence the audit objection may kindly be dropped.

The assessee has claimed exemption of Rs. 2,29,22,571/- on sales to CSEZ units in the annual return filed for the year 2013-14. The assessee has submitted Audited financial statements before the appellate authority to prove their genuineness and also produced bank accounts to prove the claim of income is from service. The assessee has also produced certificate prepared by an independent Chartered Accountant based on the verification of the books of accounts of the appellant that the operational turnover of the appellant consist of service income only. As per annual return ,the dealer had not availed any ITC for the same.

239

Para No.	Gist of the case	Present position																							
2.4.7.6(6) Sl.No.7	<p>As per Rule 10 of KVAT Rules, 2005, the dealer is entitled to deduct from his turnover, all amounts allowed to purchases in respect of goods returned by them, where the goods are taxable on the amount for which they have been sold. Section 41 of the Act stipulates that the selling dealer shall issue credit notes and the purchaser effecting the sales return shall issue debit notes in Form No. 9. Proviso to Rule 59 states that a credit note claim shall be supported by debit notes.</p> <p>Audit observed that 27 out of 41 dealers whose returns were scrutinised in ten assessment circles had adjusted Rs. 19.66 crore from their tax due, claiming it as the tax element on sales return. However, the claim was not supported by the corresponding debit notes issued by the purchasers to the credit note of the dealers. Lack of scrutiny by assessing officer resulted in escapement of such omissions undetected. The short levy of tax on this account worked out to Rs. 64.45 crore. The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s. TV Sundaram Iyenger &amp; Sons Private Limited of Special Circle, Thiruvananthapuram was the biggest defaulter with tax effect of Rs. 44.20 crore.</p> <p>Audit noticed that M/s. Nestle India Limited and M/s. Prism Cement Limited of Special Circle I, Ernakulam repeated the default for three years and M/s. TV Sundram Iyengar &amp; Sons Private Limited of Special Circle, Thiruvananthapuram repeated the default for four years.</p>	<p><b>7. T.V. Sundaram Iyengar and Sons Private Limited</b>  <b>32010188782/2010-11</b>  <b>CTO, Special Circle, Thiruvananthapuram</b></p> <p>The C&amp;AG had conducted an audit in the case of M/s TVS &amp; Sons with TIN 32010188782. Audit revealed that the dealer had claimed sales return without supporting debit/credit notes and worked out short levy as shown below.</p> <table border="1"> <thead> <tr> <th>Year</th><th>ITC claim on sales return</th><th>Interest</th><th>Tax + Interest</th></tr> </thead> <tbody> <tr> <td>2010-11</td><td>2,47,74,864</td><td>1,23,87,432</td><td>3,71,62,296</td></tr> <tr> <td>2011-12</td><td>3,59,93,116</td><td>1,36,77,384</td><td>4,96,70,500</td></tr> <tr> <td>2012-13</td><td>2,63,17,582</td><td>68,42,571</td><td>3,31,60,153</td></tr> <tr> <td>2013-14</td><td>4,70,72,473</td><td>65,90,146</td><td>5,36,62,619</td></tr> </tbody> </table> <p>Based on the above along with certain other defects detected on verification, notices under Section 25(1) were issued to the dealer. The dealer had filed detailed reply along with supporting documents explaining the circumstances in which claim of input tax credit was taken on sales related credit notes.</p> <p>In reply filed, the dealer had explained the circumstances in which the transaction arises. It was submitted that in automobile sector, it is an industry wise practice wherein the invoices are raised in the month end in the name of prospective customers whom the company believes will take delivery of the vehicle. However, many at times, these sales do not get materialize and therefore the vehicle is resold to some other customer, and the earlier invoice is canceled.</p> <p>According to the dealer, "certain</p>				Year	ITC claim on sales return	Interest	Tax + Interest	2010-11	2,47,74,864	1,23,87,432	3,71,62,296	2011-12	3,59,93,116	1,36,77,384	4,96,70,500	2012-13	2,63,17,582	68,42,571	3,31,60,153	2013-14	4,70,72,473	65,90,146	5,36,62,619
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customers were interested in buying vehicles and that far as the stage of TVS raising invoices. However, the customers did not consummate the deal and did not effect full payment or effect payment and not taken delivery and proceed with registration and consequently the invoices had to be canceled. The invoices were canceled by raising credit notes against the parties. The said party is not a registered dealer under the VAT Act, but a non dealer. There is another document called "vehicle return" apparently claiming to be issued in Form No.9, styled "credit/debit note". There may also be cases of an invoice and credit not falling on consecutive days or different dates. TVS had apparently remitted Kerala VAT at 12.5% or at prevailing rate as shown under the VAT/retail invoice in their returns filed under the Act. This "vehicle return" in Form No.9 is not accepted and objections are raised."

It is submitted that the assessment of the dealer was completed as shown below including certain other defects noted in verification by this office.

Year	Assessment order No.& date	Additional demand created
2010-11	32010188782 dtd 20.02.17	6,20,91,611
2011-12	32010188782 dtd 20.02.17	5,78,05,845
2012-13	32010188782 dtd 06.03.17	10,77,12,816
2013-14	32010188782 dtd 06.02.17	16,58,15,779

The dealer had filed Wp(c) No.6242/17, 9631/17 before the High Court of Kerala against the assessment order for all the years relating to claim of sales return. The High Court of Kerala vide judgment in Wp(c) No.6242/2017(E) dated 13.03.2017 quashed the assessment relating to sales return based on the undertaking of the petitioner that they could produce the documents being the invoices raised on the very same chassis No. and engine No. and the credit note issued as

also the extract of RC Book from the website of the Kerala Motor Vehicles Department for de novo consideration.

*As per the direction of the Hon'ble High court in WPC No.9679/2017 dated 21/03/2017, dealer paid 20% of the disputed tax Rs.14,05,576/- as per chalan no. 882932 dated 24.03.17 as first installment and Rs.14,05,576/- as per chalan no.KL001368262201718M dated 08.05.2017 as second installment. The dealer filed Second appeal before Hon'ble Appellate Tribunal, TVPM vide Appeal No. TA(VAT) No. 436/2018 dtd 13.02.23, the Appellate Tribunal directed to modify the assessment order after verifying the books of accounts. The assessee produced the books of accounts only on 01.03.2024 and modification is under processing.*

Para No.	Gist of the case	Present position																							
2.4.7.6(6) Sl.No.8	<p>As per Rule 10 of KVAT Rules, 2005, the dealer is entitled to deduct from his turnover, all amounts allowed to purchases in respect of goods returned by them, where the goods are taxable on the amount for which they have been sold. Section 41 of the Act stipulates that the selling dealer shall issue credit notes and the purchaser effecting the sales return shall issue debit notes in Form No. 9. Proviso to Rule 59 states that a credit note claim shall be supported by debit notes.</p> <p>Audit observed that 27 out of 41 dealers whose returns were scrutinised in ten assessment circles had adjusted Rs. 19.66 crore from their tax due, claiming it as the tax element on sales return. However, the claim was not supported by the corresponding debit notes issued by the purchasers to the credit note of the dealers. Lack of scrutiny by assessing officer resulted in escapement of such omissions undetected. The short levy of tax on this account worked out to Rs. 64.45 crore. The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s. TV Sundaram Iyengar &amp; Sons Private Limited of Special Circle, Thiruvananthapuram was the biggest defaulter with tax effect of Rs. 44.20 crore.</p> <p>Audit noticed that M/s. Nestle India Limited and M/s. Prism Cement Limited of Special Circle I, Ernakulam repeated the default for three years and M/s. TV Sundram Iyengar &amp; Sons Private Limited of Special Circle, Thiruvananthapuram repeated the default for four years.</p>	<p><u>8. T.V. Sundaram Iyengar and Sons Private Limited 32010188782/2011-12 CTO, Special Circle, Thiruvananthapuram</u></p> <p>The C&amp;AG had conducted an audit in the case of M/s TVS &amp; Sons with TIN 32010188782. Audit revealed that the dealer had claimed sales return without supporting debit/credit notes and worked out short levy as shown below.</p> <table border="1"> <thead> <tr> <th>Year</th><th>ITC claim on sales return</th><th>Interest</th><th>Tax + Interest</th></tr> </thead> <tbody> <tr> <td>2010-11</td><td>2,47,74,864</td><td>1,23,87,432</td><td>3,71,62,296</td></tr> <tr> <td>2011-12</td><td>3,59,93,116</td><td>1,36,77,384</td><td>4,96,70,500</td></tr> <tr> <td>2012-13</td><td>2,63,17,582</td><td>68,42,571</td><td>3,31,60,153</td></tr> <tr> <td>2013-14</td><td>4,70,72,473</td><td>65,90,146</td><td>5,36,62,619</td></tr> </tbody> </table> <p>Based on the above along with certain other defects detected on verification by this office, notices Under Section 25(1) were issued to the dealer. The dealer had filed detailed reply along with supporting documents explaining the circumstances in which claim of input tax credit was taken on sales related credit notes.</p> <p>In reply filed, the dealer had explained the circumstances in which the transaction arises. It was submitted that in automobile sector, it is an industry wise practice wherein the invoices are raised in the month end in the name of prospective customers whom the company believes will take delivery of the vehicle. However, many at times, these sales do not get materialize and therefore the vehicle is resold to some other customer, and the earlier invoice is canceled.</p>				Year	ITC claim on sales return	Interest	Tax + Interest	2010-11	2,47,74,864	1,23,87,432	3,71,62,296	2011-12	3,59,93,116	1,36,77,384	4,96,70,500	2012-13	2,63,17,582	68,42,571	3,31,60,153	2013-14	4,70,72,473	65,90,146	5,36,62,619
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According to the dealer, "certain customers were interested in buying vehicles and that far as the stage of TVS raising invoices. However, the customers did not consummate the deal and did not effect full payment or effect payment and not taken delivery and proceed with registration and consequently the invoices had to be canceled. The invoices were canceled by raising credit notes against the parties. The said party is not a registered dealer under the VAT Act, but a non dealer. There is another document called "vehicle return" apparently claiming to be issued in Form No.9, styled "credit/debit note". There may also be cases of an invoice and credit not falling on consecutive days or different dates. TVS had apparently remitted Kerala VAT at 12.5% or at prevailing rate as shown under the VAT/retail invoice in their returns filed under the Act. This "vehicle return" in Form No.9 is not accepted and objections are raised."

It is submitted that the assessment of the dealer was completed as shown below including certain other defects noted in verification by this office.

Year	Assessment order No.& date	Additional demand created
2010-11	32010188782 dtd 20.02.17	6,20,91,611
2011-12	32010188782 dtd 20.02.17	5,78,05,845
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The dealer had filed Wp(c) No.6242/17, 9631/17 before the High Court of Kerala against the assessment order for all the years relating to claim of sales return. The High Court of Kerala vide judgment in Wp(c) No.6242/2017(E) dated 13.03.2017 quashed

		<p>the assessment relating to sales return based on the undertaking of the petitioner that they could produce the documents being the invoices raised on the very same chassis No. and engine No. and the credit note issued as also the extract of RC Book from the website of the Kerala Motor Vehicles Department for de novo consideration.</p> <p><i>As per the direction of the Hon'ble High court in WPC No.9679/2017 dated 21/03/2017, dealer paid 20% of the disputed tax Rs.3,82,007/- as per chalan no. 882933 dated 24.03.17 as first installment and Rs.3,82,007/- as per chalan no KL001367821201718M dated 08.05.2017 as second installment. The dealer filed Second appeal before Hon'ble Appellate Tribunal, TVPM vide Appeal No. TA(VAT) No. 437/2018 dtd 13.02.23, the Appellate Tribunal directed to modify the assessment after verifying the books of accounts. The assessee has not produced the books of accounts hence the modification is pending.</i></p>
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<b>2.4.7.6(6)</b> <b>Sl.No.9</b>	<p>As per Rule 10 of KVAT Rules, 2005, the dealer is entitled to deduct from his turnover, all amounts allowed to purchases in respect of goods returned by them, where the goods are taxable on the amount for which they have been sold. Section 41 of the Act stipulates that the selling dealer shall issue credit notes and the purchaser effecting the sales return shall issue debit notes in Form No. 9. Proviso to Rule 59 states that a credit note claim shall be supported by debit notes.</p> <p>Audit observed that 27 out of 41 dealers whose returns were scrutinised in ten assessment circles had adjusted Rs. 19.66 crore from their tax due, claiming it as the tax element on sales return. However, the claim was not supported by the corresponding debit notes issued by the purchasers to the credit note of the dealers. Lack of scrutiny by assessing officer resulted in escapement of such omissions undetected. The short levy of tax on this account worked out to Rs. 64.45 crore. The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s. TV Sundaram Iyenger &amp; Sons Private Limited of Special Circle, Thiruvananthapuram was the biggest defaulter with tax effect of Rs. 44.20 crore.</p> <p>Audit noticed that M/s. Nestle India Limited and M/s. Prism Cement Limited of Special Circle I, Ernakulam repeated the default for three years and M/s. TV Sundaram Iyengar &amp; Sons Private Limited of Special Circle, Thiruvananthapuram repeated the default for four years.</p>	<p><b>9. T.V. Sundaram Iyengar and Sons Private Limited 32010188782/2012-13 CTO, Special Circle, Thiruvananthapuram</b></p> <p>The C&amp;AG had conducted an audit in the case of M/s TVS &amp; Sons with TIN 32010188782. Audit revealed that the dealer had claimed sales return without supporting debit/credit notes and worked out short levy as shown below.</p> <table border="1"> <thead> <tr> <th>Year</th> <th>ITC claim on sales return</th> <th>Interest</th> <th>Tax + Interest</th> </tr> </thead> <tbody> <tr> <td>2010-11</td> <td>2,47,74,864</td> <td>1,23,87,432</td> <td>3,71,62,296</td> </tr> <tr> <td>2011-12</td> <td>3,59,93,116</td> <td>1,36,77,384</td> <td>4,96,70,500</td> </tr> <tr> <td>2012-13</td> <td>2,63,17,582</td> <td>68,42,571</td> <td>3,31,60,153</td> </tr> <tr> <td>2013-14</td> <td>4,70,72,473</td> <td>65,90,146</td> <td>5,36,62,619</td> </tr> </tbody> </table> <p>Based on the above along with certain other defects detected on verification by this office, notices Under Section 25(1) were issued to the dealer. The dealer had filed detailed reply along with supporting documents explaining the circumstances in which claim of input tax credit was taken on sales related credit notes.</p> <p>In reply filed, the dealer had explained the circumstances in which the transaction arises. It was submitted that in automobile sector, it is an industry wise practice wherein the invoices are raised in the month end in the name of</p>	Year	ITC claim on sales return	Interest	Tax + Interest	2010-11	2,47,74,864	1,23,87,432	3,71,62,296	2011-12	3,59,93,116	1,36,77,384	4,96,70,500	2012-13	2,63,17,582	68,42,571	3,31,60,153	2013-14	4,70,72,473	65,90,146	5,36,62,619				
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prospective customers whom the company believes will take delivery of the vehicle. However, many at times, these sales do not get materialize and therefore the vehicle is resold to some other customer, and the earlier invoice is canceled.

According to the dealer, "certain customers were interested in buying vehicles and that far as the stage of TVS raising invoices. However, the customers did not consummate the deal and did not effect full payment or effect payment and not taken delivery and proceed with registration and consequently the invoices had to be canceled. The invoices were canceled by raising credit notes against the parties. The said party is not a registered dealer under the VAT Act, but a non dealer. There is another document called "vehicle return" apparently claiming to be issued in Form No.9, styled "credit/debit note". There may also be cases of an invoice and credit not falling on consecutive days or different dates. TVS had apparently remitted Kerala VAT at 12.5% or at prevailing rate as shown under the VAT/retail invoice in their returns filed under the Act. This "vehicle return" in Form No.9 is not accepted and objections are raised."

It is submitted that the assessment of the dealer was completed as shown below including certain other defects noted in verification.

Year	Assessment order No.& date	Additional demand created
2010 -11	32010188782 dtd 20.02.17	6,20,91,611
2011 -12	32010188782 dtd 20.02.17	5,78,05,845
2012 -13	32010188782 dtd 06.03.17	10,77,12,816

5/17

2013	32010188782	16,58,15,77
-14	dtd 06.02.17	9

The dealer had filed Wp(c) No.6242/17, 9631/17 before the High Court of Kerala against the assessment order for all the years relating to claim of sales return. The High Court of Kerala vide judgment in Wp(c) No.6242/2017(E) dated 13.03.2017 quashed the assessment relating to sales return based on the undertaking of the petitioner that they could produce the documents being the invoices raised on the very same chassis No. and engine No. and the credit note issued as also the extract of RC Book from the website of the Kerala Motor Vehicles Department for de novo consideration.

*As per the direction of the Hon'ble High court in WPC No.9679/2017 dated 21/03/2017, dealer paid 20% of the disputed tax Rs.50,00,000 as per chalan no. 882934 dated 24.03.17, Rs.3,48,106 as per chalan no 882965 dtd 24.03.17 as first installment and Rs.50,00,000 as per chalan no KL001367568201718M dated 08.05.2017, Rs. 3,48,103/- as per chalan no KL001367330201718M dated 08.05.2017 as second installment. The dealer filed Second appeal before Hon'ble Appellate Tribunal, TVPM vide Appeal No. TA(VAT) No. 250/2019 dtd 05.04.2023, the Appellate Tribunal directed to modify the assessment after verifying the books of accounts. The assessee has not produced the books of accounts hence the modification is pending.*

Para No.	Gist of the case	Present position																							
2.4.7.6(6) Sl.No.10	<p>As per Rule 10 of KVAT Rules, 2005, the dealer is entitled to deduct from his turnover, all amounts allowed to purchases in respect of goods returned by them, where the goods are taxable on the amount for which they have been sold. Section 41 of the Act stipulates that the selling dealer shall issue credit notes and the purchaser effecting the sales return shall issue debit notes in Form No. 9. Proviso to Rule 59 states that a credit note claim shall be supported by debit notes.</p> <p>Audit observed that 27 out of 41 dealers whose returns were scrutinised in ten assessment circles had adjusted Rs. 19.66 crore from their tax due, claiming it as the tax element on sales return. However, the claim was not supported by the corresponding debit notes issued by the purchasers to the credit note of the dealers. Lack of scrutiny by assessing officer resulted in escapement of such omissions undetected. The short levy of tax on this account worked out to Rs. 64.45 crore. The Tax district-wise deviation from provisions of the Act/Rules.</p> <p>Audit observed that amongst the defaulters, M/s. TV Sundaram Iyenger &amp; Sons Private Limited of Special Circle, Thiruvananthapuram was the biggest defaulter with tax effect of Rs. 44.20 crore.</p> <p>Audit noticed that M/s. Nestle India Limited and M/s. Prism Cement Limited of Special Circle I, Ernakulam repeated the default for three years and M/s. TV Sundram Iyengar &amp; Sons Private Limited of Special Circle, Thiruvananthapuram repeated the default for four years.</p>	<p><b><u>10. T.V. Sundaram Iyengar and Sons Private Limited</u></b>  <b><u>32010188782/2013-14</u></b>  <b><u>CTO, Special Circle,</u></b>  <b><u>Thiruvananthapuram</u></b></p> <p>The C&amp;AG had conducted an audit in the case of M/s TVS &amp; Sons with TIN 32010188782. Audit revealed that the dealer had claimed sales return without supporting debit/credit notes and worked out short levy as shown below.</p> <table border="1"> <thead> <tr> <th>Year</th> <th>ITC claim on sales return</th> <th>Interest</th> <th>Tax + Interest</th> </tr> </thead> <tbody> <tr> <td>2010-11</td> <td>2,47,74,864</td> <td>1,23,87,432</td> <td>3,71,62,296</td> </tr> <tr> <td>2011-12</td> <td>3,59,93,116</td> <td>1,36,77,384</td> <td>4,96,70,500</td> </tr> <tr> <td>2012-13</td> <td>2,63,17,582</td> <td>68,42,571</td> <td>3,31,60,153</td> </tr> <tr> <td>2013-14</td> <td>4,70,72,473</td> <td>65,90,146</td> <td>5,36,62,619</td> </tr> </tbody> </table>				Year	ITC claim on sales return	Interest	Tax + Interest	2010-11	2,47,74,864	1,23,87,432	3,71,62,296	2011-12	3,59,93,116	1,36,77,384	4,96,70,500	2012-13	2,63,17,582	68,42,571	3,31,60,153	2013-14	4,70,72,473	65,90,146	5,36,62,619
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		<p>Based on the above along with certain other defects detected on verification by this office, notices Under Section 25(1) were issued to the dealer. The dealer had filed detailed reply along with supporting documents explaining the circumstances in which claim of input tax credit was taken on sales related credit notes.</p> <p>In reply filed, the dealer had explained the circumstances in which the transaction arises. It was submitted that in automobile sector, it is an industry wise practice wherein the invoices are raised in the month end in the name of prospective customers whom the company believes</p>																							

will take delivery of the vehicle. However, many at times, these sales do not get materialize and therefore the vehicle is resold to some other customer, and the earlier invoice is canceled.

According to the dealer, "certain customers were interested in buying vehicles and that far as the stage of TVS raising invoices. However, the customers did not consummate the deal and did not effect full payment or effect payment and not taken delivery and proceed with registration and consequently the invoices had to be canceled. The invoices were canceled by raising credit notes against the parties. The said party is not a registered dealer under the VAT Act, but a non dealer. There is another document called "vehicle return" apparently claiming to be issued in Form No.9, styled "credit/debit note". There may also be cases of an invoice and credit not falling on consecutive days or different dates. TVS had apparently remitted Kerala VAT at 12.5% or at prevailing rate as shown under the VAT/retail invoice in their returns filed under the Act. This "vehicle return" in Form No.9 is not accepted and objections are raised."

It is submitted that the assessment of the dealer was completed as shown below including certain other defects noted in verification by this office.

Year	Assessment order No.& date	Additional demand created
2010-11	32010188782 dtd 20.02.17	6,20,91,611
2011-12	32010188782 dtd 20.02.17	5,78,05,845
2012-13	32010188782 dtd 06.03.17	10,77,12,816
2013-14	32010188782 dtd 06.02.17	16,58,15,779

The dealer had filed Wp(c) No.6242/17, 9631/17 before the High Court of Kerala against the assessment order for all the years relating to claim of sales return. The High Court of Kerala vide judgment in Wp(c) No.6242/2017(E) dated 13.03.2017 quashed the assessment relating to sales return based on the undertaking of the petitioner that they could produce the documents being the invoices raised on the very same chassis No. and engine No. and the credit note issued as also the extract of RC Book from the website of the Kerala Motor Vehicles Department for de novo consideration.

*The assessment was modified on 16.08.2022/- demanding tax Rs. 8,30,43,460/- and interest Rs. 8,38,73,894, total Rs. 16,69,17,354/- which was further rectified under section 66 vide order dated 19.09.2022 of DC Spl Circle, Tvpm demanding tax Rs. 4,07,45,183/- and interest Rs. 4,15,60,087/- total: Rs. 8,23,05,269/-. As per the direction of the Hon'ble High court in WPC No.9679/2017 dated 21/03/2017, dealer paid 20% of the disputed tax Rs.50,00,000/- as per chalan no.KL001368584201718M dtd 08.05.2017 as first installment and Rs.31,50,380/- as per chalan no.KL001369364201718M dated 08.05.2017 as second installment. The dealer has filed second appeal before Hon'ble Appellate Tribunal, TVPM. As per TA(VAT) No 385/2019 dtd 26.07.2023 TA (VAT) NO 352/19 dtd 23.03.2023 KVATA 202/2022 dated 30.11.2023, the Appellate Tribunal directed to modify the assessment orders for the year 2013-14 after verifying the books of accounts . The assessee has not produced the books of accounts. Hence the modification is pending.*

Para No.	Gist of the case	Present position
<b>2.4.7.6</b> <b>Bullet 9</b> <b>Sl.No.2</b>	<p>As per Section 8(a) of the Act, a dealer, instead of paying tax under section 6, can opt for payment of tax at the rate stipulated for the whole amount of contract. As such, a dealer who opted to pay tax under Section 8(a), is not eligible to deduct any amount from the contract receipt received by him. This position was upheld in a judicial review by the High Court of Punjab and Haryana.</p> <p>Audit found that 12 out of 22 works contractors/builders in four assessment circles had availed exemption of the value of land amounting to ₹ 33.14 crore from their contract receipt to arrive at the taxable turnover. This is against the provisions of the Act and had resulted in short payment of tax including interest and penalty of ₹3.30 crore (Appendix IX) The tax district -wise deviation from provisions of the Act/Rules . Audit observed that amongst the defaulters, M/s. Hilite Builders of Works Contract Office, Kozhikod was the biggest defaulter with tax effect of ₹ 1.19 crore. Audit noticed that M/s. Pazheri Properties &amp; Developers (P)Ltd of Works Contract Office, Kozhikode repeated the default for three years.</p> <p>Audit found that acceptance of returns of the dealers who were not adhering to the provisions in the statute led to evasion of tax.</p>	<p><b>2. Classic Builders</b>  <b>32091640863/2012-13</b>  <b>CTO (WC), Palakkad</b></p> <p>The objection raised in this case was that the exemption claimed on the land value by the dealers opted to pay tax under section 8(a) is irregular. In this regard the assessee has produced a clarification order (Order No.C3/3450/2013/CT dated 27.03.2019). In the clarification order is pointed out is appended below:</p> <p><i>"It is clarified that the immovable property is excluded from the definitions of 'goods' under sec2(xx) of the Kerala Value Added Tax Act ,2003. Definition of 'total turnover' and 'turnover' under the Kerala Value Added Tax Act pertains to transaction in goods only. So, land being immovable property will not come within the purview of goods either under the definitions total turnover or turnover as per the Kerala Value Added Tax Act .As such,consideration received for the transfer of land is not amenable to taxation under the Kerala Value Added Tax Act ,whether under Sec .6(1)(a) or under Sec.8(a) of the Kerala Value Added Tax Act if evidence is available for the same." Hence the audit objection is not sustainable and the same may kindly be dropped.</i></p>

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 9 Sl.No.6	<p>As per Section 8(a) of the Act, a dealer, instead of paying tax under section 6, can opt for payment of tax at the rate stipulated for the whole amount of contract. As such, a dealer who opted to pay tax under Section 8(a), is not eligible to deduct any amount from the contract receipt received by him. This position was upheld in a judicial review by the High Court of Punjab and Haryana.</p> <p>Audit found that 12 out of 22 works contractors/builders in four assessment circles had availed exemption of the value of land amounting to ₹ 33.14 crore from their contract receipt to arrive at the taxable turnover. This is against the provisions of the Act and had resulted in short payment of tax including interest and penalty of ₹3.30 crore (Appendix IX) The tax district -wise deviation from provisions of the Act/Rules . Audit observed that amongst the defaulters, M/s.Hilite Builders of Works Contract Office, Kozhikod was the biggest defaulter with tax effect of ₹ 1.19 crore. Audit noticed that M/s.Pazheri Properties &amp; Developers (P)Ltd of Works Contract Office, Kozhikode repeated the default for three years.</p> <p>Audit found that acceptance of returns of the dealers who were not adhering to the provisions in the statute led to evasion of tax.</p>	<p><b><u>6. Chanthankulam Projects &amp; Developers (P) Ltd</u></b>  <b><u>32091659717/2011-12</u></b>  <b><u>CTO (WC), Palakkad</u></b></p> <p>The objection raised in this case was that the exemption claimed on the land value by the dealers opted to pay tax under section 8(a) is irregular. In this regard the assessee has produced a clarification order (Order No.C3/3450/2013/CT dated 27.03.2019) and a letter of reply dated 11.12.2023. In the clarification order is pointed out is appended below:</p> <p><i>"It is clarified that the immovable property is excluded from the definitions of 'goods' under sec2(xx) of the Kerala Value Added Tax Act, 2003. Definition of 'total turnover' and 'turnover' under the Kerala Value Added Tax Act pertains to transaction in goods only. So, land being immovable property will not come within the purview of goods either under the definitions total turnover or turnover as per the Kerala Value Added Tax Act. As such, consideration received for the transfer of land is not amenable to taxation under the Kerala Value Added Tax Act, whether under Sec.6(1)(a) or under Sec.8(a) of the Kerala Value Added Tax Act if evidence is available for the same."</i></p> <p>Hence the audit objection is not sustainable and the same may kindly be dropped.</p>

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 9 Sl.No.7	<p>As per Section 8(a) of the Act, a dealer, instead of paying tax under section 6, can opt for payment of tax at the rate stipulated for the whole amount of contract. As such, a dealer who opted to pay tax under Section 8(a), is not eligible to deduct any amount from the contract receipt received by him. This position was upheld in a judicial review by the High Court of Punjab and Haryana.</p>	<p><b>7. Chanthankulam Projects &amp; Developers (P) Ltd 32091659717/2012-13 CTO (WC), Palakkad</b></p>
	<p>Audit found that 12 out of 22 works contractors/builders in four assessment circles had availed exemption of the value of land amounting to ₹ 33.14 crore from their contract receipt to arrive at the taxable turnover. This is against the provisions of the Act and had resulted in short payment of tax including interest and penalty of ₹3.30 crore (Appendix IX) The tax district -wise deviation from provisions of the Act/Rules. Audit observed that amongst the defaulters, M/s. Hilite Builders of Works Contract Office, Kozhikode was the biggest defaulter with tax effect of ₹ 1.19 crore. Audit noticed that M/s. Pazheri Properties &amp; Developers (P)Ltd of Works Contract Office, Kozhikode repeated the default for three years.</p> <p>Audit found that acceptance of returns of the dealers who were not adhering to the provisions in the statute led to evasion of tax.</p>	<p>The objection raised in this case was that the exemption claimed on the land value by the dealers opted to pay tax under section 8(a) is irregular. In this regard the assessee has produced a clarification order (Order No.C3/3450/2013/CT dated 27.03.2019) and a letter of reply dated 11.12.2023. In the clarification order is pointed out is appended below:</p> <p><i>"It is clarified that the immovable property is excluded from the definitions of 'goods' under sec2(xx) of the Kerala Value Added Tax Act, 2003. Definition of 'total turnover' and 'turnover' under the Kerala Value Added Tax Act pertains to transaction in goods only. So, land being immovable property will not come within the purview of goods either under the definitions total turnover or turnover as per the Kerala Value Added Tax Act. As such, consideration received for the transfer of land is not amenable to taxation under the Kerala Value Added Tax Act, whether under Sec.6(1)(a) or under Sec.8(a) of the Kerala Value Added Tax Act if evidence is available for the same."</i></p> <p>Hence the audit objection is not sustainable and the same may kindly be dropped.</p>

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 9 SL.No.14	<p>As per Section 8(a) of the Act, a dealer, instead of paying tax under section 6, can opt for payment of tax at the rate stipulated for the whole amount of contract. As such, a dealer who opted to pay tax under Section 8(a), is not eligible to deduct any amount from the contract receipt received by him. This position was upheld in a judicial review by the High Court of Punjab and Haryana.</p> <p>Audit found that 12 out of 22 works contractors/builders in four assessment circles had availed exemption of the value of land amounting to ₹ 33.14 crore from their contract receipt to arrive at the taxable turnover. This is against the provisions of the Act and had resulted in short payment of tax including interest and penalty of ₹3.30 crore (Appendix IX) The tax district -wise deviation from provisions of the Act/Rules. Audit observed that amongst the defaulters, M/s. Hilite Builders of Works Contract Office, Kozhikode was the biggest defaulter with tax effect of ₹ 1.19 crore. Audit noticed that M/s. Pazheri Properties &amp; Developers (P)Ltd of Works Contract Office, Kozhikode repeated the default for three years.</p> <p>Audit found that acceptance of returns of the dealers who were not adhering to the provisions in the statute led to evasion of tax.</p>	<p><b>14. M/s. Pentium Construction</b>  <b>32111514595/2011-12</b>  <b>CTO (WC), Kozhikode</b></p> <p>M/s. Pentium Constructions (P) Ltd, AG Road, Kozhikode is a registered dealer bearing TIN 32111514595 on the rolls of the Office of the State Tax Officer (Works Contract). The assessment of the dealer for the year 2011-12 was completed on 08-01-2018 by creating an additional demand of Rs. 11,33,570/- (Tax) and Rs. 7,93,499/- (Interest). Assessment modified on 29.03.2019. Demand Rs. 4,39,926/- (Tax Rs. 3,89,315/- + Interest Rs. 50,611/-). The dealer is under IAC RR 82/2019-20 dated 19.08.2020.</p>

Para No.	Gist of the case	Present position
<b>2.4.7.6</b> <b>Bullet 9</b> <b>SL.No.15</b>	<p>As per Section 8(a) of the Act, a dealer, instead of paying tax under section 6, can opt for payment of tax at the rate stipulated for the whole amount of contract. As such, a dealer who opted to pay tax under Section 8(a), is not eligible to deduct any amount from the contract receipt received by him. This position was upheld in a judicial review by the High Court of Punjab and Haryana.</p> <p>Audit found that 12 out of 22 works contractors/builders in four assessment circles had availed exemption of the value of land amounting to ₹ 33.14 crore from their contract receipt to arrive at the taxable turnover. This is against the provisions of the Act and had resulted in short payment of tax including interest and penalty of ₹3.30 crore (Appendix IX) The tax district -wise deviation from provisions of the Act/Rules. Audit observed that amongst the defaulters, M/s. Hilite Builders of Works Contract Office, Kozhikode was the biggest defaulter with tax effect of ₹ 1.19 crore. Audit noticed that M/s. Pazheri Properties &amp; Developers (P)Ltd of Works Contract Office, Kozhikode repeated the default for three years.</p> <p>Audit found that acceptance of returns of the dealers who were not adhering to the provisions in the statute led to evasion of tax.</p>	<p><b>15. M/s. Pentium Construction</b>  <b>32111514595/2012-13</b>  <b>CTO (WC), Kozhikode</b></p> <p>Objection is sustainable. Assessment completed on 27.01.2018. Demand Rs. 7,37,144/- (Tax Rs. 4,66,547/- + Interest Rs. 2,70,597/-). The dealer is under IAC RR 51/2018-19. Paid in appeal Rs. 93,309/- as per Challan No. KL007190933201819M dated 24.08.2018. Paid Rs. 46,654/- vide cheque No. 974830 dated 20.08.2020. The dealer is under Tribunal Stay as per TA(VAT) 105/20.</p>

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 9 Sl.No.19	<p>As per Section 8(a) of the Act, a dealer, instead of paying tax under section 6, can opt for payment of tax at the rate stipulated for the whole amount of contract. As such, a dealer who opted to pay tax under Section 8(a), is not eligible to deduct any amount from the contract receipt received by him. This position was upheld in a judicial review by the High Court of Punjab and Haryana.</p> <p>Audit found that 12 out of 22 works contractors/builders in four assessment circles had availed exemption of the value of land amounting to ₹ 33.14 crore from their contract receipt to arrive at the taxable turnover. This is against the provisions of the Act and had resulted in short payment of tax including interest and penalty of ₹3.30 crore(Appendix IX) The tax district -wise deviation from provisions of the Act/Rules . Audit observed that amongst the defaulters, M/s.Hilite Builders of Works Contract Office, Kozhikod was the biggest defaulter with tax effect of ₹ 1.19 crore. Audit noticed that M/s.Pazheri Properties &amp; Developers (P)Ltd of Works Contract Office, Kozhikode repeated the default for three years.</p> <p>Audit found that acceptance of returns of the dealers who were not adhering to the provisions in the statute led to evasion of tax.</p>	<p><b><u>19. M/s Oxoniya Builders and Developers (P) Ltd 32072022628/2013-14</u></b>  <b><u>CTO (WC), Ernakulam</u></b></p> <p>The defect pointed out by the Accountant General is that the dealer exempted sale value of land of Rs.51,64,100/- from the assessable turnover M/s. Oxoniya Builders and Developers Pvt. Ltd have filed Annual return disclosing a turnover of Rs. 10,63,51,871/-. As per schedules attached to P&amp;L the dealer has disclosed a turnover of Rs. 1,58,24,443/- as revenue from operations. Thus the difference between P&amp;L and annual return is Rs. 94,72,572/-.As per order no. 32072022628/13-14 dated 30-01-2017, the difference has been assessed to tax, since it is not proved with supporting documents. The assessed turnover of Rs. 94,72,572/- includes the turnover of sale of value of land. The additional demand created as per the assessment order dated 30-01-2017 is Rs.32,56,662/-(Tax Rs. 24,12,342/- and interest f Rs.8,44,320/-). The amount is under Revenue Recovery.</p> <p>Assessment modified as per KVATA 1808/2017(2013-14) on 31.01.2020. Modified Tax Due- Rs. 17099/-, Interest due- Rs.11798/-, total – Rs. 28897/-. Appeal filed against modified order was dismissed.</p>

Para No.	Gist of the case	Present position
<p><b>2.4.7.6</b>  <b>Bullet 9</b>  <b>Sl.No.20</b></p>	<p>As per Section 8(a) of the Act, a dealer, instead of paying tax under section 6, can opt for payment of tax at the rate stipulated for the whole amount of contract. As such, a dealer who opted to pay tax under Section 8(a), is not eligible to deduct any amount from the contract receipt received by him. This position was upheld in a judicial review by the High Court of Punjab and Haryana.</p> <p>Audit found that 12 out of 22 works contractors/builders in four assessment circles had availed exemption of the value of land amounting to ₹ 33.14 crore from their contract receipt to arrive at the taxable turnover. This is against the provisions of the Act and had resulted in short payment of tax including interest and penalty of ₹3.30 crore (Appendix IX) The tax district -wise deviation from provisions of the Act/Rules. Audit observed that amongst the defaulters, M/s. Hilite Builders of Works Contract Office, Kozhikode was the biggest defaulter with tax effect of ₹ 1.19 crore. Audit noticed that M/s. Pazheri Properties &amp; Developers (P)Ltd of Works Contract Office, Kozhikode repeated the default for three years.</p> <p>Audit found that acceptance of returns of the dealers who were not adhering to the provisions in the statute led to evasion of tax.</p>	<p><b>20. M/s Sophia Builders</b>  <u>32072048605/2013-14</u>  <u>CTO (WC), Ernakulam</u></p> <p>Assessment was completed vide order dated 28.06.2018 with additional on demand of Rs.9,77,111 (Tax Rs.6,86,076 and Interest Rs.2,91,635). Collection of the amount stayed by the Hon'ble High Court of Kerala as per order WP(C) No.25119/2018(L) dated 26.07.2018. Assessee opted Amnesty Scheme 2021 and remitted and outstanding amount fully. (chalan GRN KL012515032202122E).</p> <p>The AG has observed that the exemption given on the land value of building is irregular and lead to tax expected of 14 lakhs in 13-14. The assessment authority in his 1<sup>st</sup> order did not allow the exemption to the sale value of land on which the building is constructed. But the 1<sup>st</sup> appellate authority in his order dated 23/12/2020 para 6 says, In fact the authorities below ought to have noted that the sale value of immovable property's totally out of purview of the VAT. As per the definition clause (section 2xx) of the KVAT Act goods mean all kinds of movable property thus landed property being an immovable property is in a realm beyond the territory of powers of any tax authorities under the act. " The exemption give on the sale value land on which the building is made in given exemption. The action of the assessing authority is correct as far as the appellate order. The finding of A.G regarding the land value is not sustainable.</p>

Para No.	Gist of the case	Present position
2.4.7.6 Bullet 9 Sl.No.21	<p>As per Section 8(a) of the Act, a dealer, instead of paying tax under section 6, can opt for payment of tax at the rate stipulated for the whole amount of contract. As such, a dealer who opted to pay tax under Section 8(a), is not eligible to deduct any amount from the contract receipt received by him. This position was upheld in a judicial review by the High Court of Punjab and Haryana.</p> <p>Audit found that 12 out of 22 works contractors/builders in four assessment circles had availed exemption of the value of land amounting to ₹ 33.14 crore from their contract receipt to arrive at the taxable turnover. This is against the provisions of the Act and had resulted in short payment of tax including interest and penalty of ₹3.30 crore (Appendix IX) The tax district-wise deviation from provisions of the Act/Rules. Audit observed that amongst the defaulters, M/s. Hilite Builders of Works Contract Office, Kozhikode was the biggest defaulter with tax effect of ₹ 1.19 crore. Audit noticed that M/s. Pazheri Properties &amp; Developers (P) Ltd of Works Contract Office, Kozhikode repeated the default for three years.</p> <p>Audit found that acceptance of returns of the dealers who were not adhering to the provisions in the statute led to evasion of tax.</p>	<p><b>21. M/s Sophia Builders</b>  <b>32072048605/2012-13</b>  <b>CTO (WC), Ernakulam</b></p> <p>Assessment was completed for the year 2012-13 with additional demand of Rs. 28,69,556.00 (Tax Rs. 17,60,464 and Interest Rs. 11,09,092). Collection of the demand stayed by the Hon'ble High Court of Kerala as per order WP(C) No. 25151/2018 dated 26.07.2018. Assessee opted Amnesty Scheme 2021 and remitted and outstanding amount fully. (chalan GRN KL012515032202122E)</p> <p>The AG has observed that the exemption given on the land value of building is irregular and lead to tax expected of 14 lakhs in 2013-14, 2012-13. The assessment authority in his 1<sup>st</sup> order did not allow the exemption to the sale value of land on which the building is constructed. But the 1<sup>st</sup> appellate authority in his order date 23/12/2020 para 6 says In fact the authorities below ought to have noted that the sale value of immovable property's totally out of purview of the VAT. As per the definition clause (section 2xx) of the KVAT Act goods mean all kinds of movable property thus landed property being an immovable property is in a realm beyond the territory of powers of any tax authorities under the act." The exemption given on the sale value land on which the building is made is given exemption. The action of the assessing authority is correct as far as the appellate order. The the finding of A.G regarding the land value is not sustainable.</p>

*[Signature]*  
 MANOJ.K  
 PEN:102842  
 Joint Secretary to Government  
 Taxes Department  
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1  
ACTION TAKEN NOTES ON C & AG'S REPORTS

I	(a) Department	STATE GOODS AND SERVICE TAX
	(b) Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment
	(c) Paragraph No.	Accounted Sales escaping Assessment 2.4.7.6 (1)
	(d) Report No. and Year	C & AG report for the year ended 31-3-2015
II	(a) Date of receipt of the Draft Para / Review in the Department	
	(b) Date of Department's Reply	
III	Gist of Paragraph/Review	<p>Section 42(1) of KVAT Act, 2003 stipulates that every dealer whose total turnover in a year exceeds rupees sixty lakh shall get his accounts audited annually by a Chartered Accountant or Cost Accountant and shall submit a copy of the audited statement of accounts and certificate in Form 13 &amp; 13A.</p> <p>Section 24(1)(a) of the Act stipulates rejection of the return, if there is discrepancy between the return filed and audited accounts and to complete the assessment to the "best of judgement". As per section 42(2) of the Act, the dealer is liable to pay any additional tax with reference to the audited figures, interest thereon under Section 31(5) and penal interest at twice the rate of interest accrued.</p> <p>Audit noticed that in 14 assessment circles, 15 dealers failed to report the</p>

accounted sales whereas 14 dealers failed to report the turnover accounted as 'other receipts'.

The 'other receipts' were warranty claim, AMC receipt, trade discount, subsidy or other receipts to make up the loss sustained etc. which were liable for tax. The total turnover escaped from assessment of tax worked out to Rs. 323.22 crore and the resultant short levy of tax including interest under Section 31(5) penal interest and penalty under Section 67 amounted to Rs.105.30 crore (Appendix V). The Tax district-wise deviation from provisions of the Act/Rules.

Audit observed that amongst the defaulters, M/s Hindustan Unilever Limited of Special Circle, Mattancherry was the biggest defaulter with tax effect of Rs. 41.61 crore. The nature of business dealt with by other dealers are given below:

- Four in Fast Moving Consumer Goods with tax effect of Rs. 51.09 crore.
- Four in Supermarket with tax effect of Rs. 7.50 crore.
- Three in batteries with tax effect of Rs. 4.50 crore.
- Eighteen in multiple commodities with tax effect of Rs. 142.21 crore.

Thus, failure of assessing officers to

		adhere to the provisions of the Act and rules resulted in non-detection of irregularities.
IV	(a) Does the Department agree with the facts and figures included in the paragraph?	No
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a) Does the Department agree with the Audit conclusions?	No
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

## REMEDIAL ACTION TAKEN

(a) Improvement in system and procedures, including internal controls.

19. Muthoottil Traders 32050977142/2013-14

The assessee has disclosed a total turnover of Rs.1,25,74,784/- for the year 2013-14 in the return filed. The output tax due/ collected by the dealer as per returns is Rs.18,23,346/-. In the audit report, the dealer has reported the total turnover as Rs.1,43,98,130/- inclusive of the output tax collected (Rs.1,25,74,784 + Rs.18,23,346 = 1,43,98,130). This is the reason for the difference. Hence there is no escape of turnover in the case.

28. Amala Super Market 32050649856/2013-14

On verification of the Returns for the year 2013-14 with the Audit Report and P & L Accounts, it is found that the dealer was failed to disclose a part of non-taxable sales turnover as well as purchase turnover as detailed below:

SALES

Rate of tax	As per return	As per Audit Report	Variation
1%	254582.61	254582.61	0
5%	519019.69	519019.69	0
14.5%	1829973.91	1829973.91	0
20%	30019.49	30019.49	0
0%	6142580.61	7304848.92	1162268.31
<b>Total</b>	<b>8776176.31</b>	<b>9938444.62</b>	<b>1162268.31</b>

PURCHASES

Rate of tax	As per return	As per Audit Report	Variation
1%	291027.22	291027.22	0
5%	513005.5	513005.5	0
14.5%	988220	988220	0
20%	35818.79	35818.79	0
6(2) Purchase 14.5%	115725	115725	0
Non taxable	858982.45	1757695.1	898712.65
Non taxable	3441953.9	3441953.9	0

	6(2)			
	<b>Total</b>			<b>898712.65</b>

As the variation in turnover relates to non-taxable items, there is no revenue loss happened. Hence the case is not sustainable.

(b) Recovery of overpayment pointed out by audit				
(c) Recovery of under assessment, short levy or other dues				
(d) Modification in the schemes and programmes including financing pattern				
(e) Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.				

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നിർമ്മി വിവരങ്ങൾ  
ഗവൺമെന്റ് ഉപയോഗിക്കിയെന്ന്  
തിരുവനന്തപുരം

## ACTION TAKEN NOTES ON C &amp; AG'S REPORTS

I	(a)	Department	STATE GOODS AND SERVICE TAX
	(b)	Subject/Title of the Review Paragraph	Non adherence to provisions of Act and Rules while completing the assessment Output Tax (OPT) reversed without furnishing requisite documents
	(c)	Paragraph No.	2.4.7.6 (6)
	(d)	Report No. and Year	C & AG for the year ended 30-03-2015
II	(a)	Date of receipt of the Draft Para / Review in the Department	
	(b)	Date of Department's Reply	
III		Gist of Paragraph/Review	<p>As per Rule 10 of KVAT Rules, 2005, the dealer is entitled to deduct from his turnover, all amounts allowed to purchasers in respect of goods returned by them, where the goods are taxable on the amount for which they have been sold. Section 41 of the Act stipulates that the selling dealer shall issue credit notes and the purchaser effecting the sales return shall issue debit notes in Form No.9. Proviso to Rule 59 states that a credit note claim shall be supported by debit notes.</p> <p>Audit observed that 27 out of 41 dealers whose returns were scrutinised in ten assessment circles had adjusted Rs.19.66 crore from their tax due, claiming it as the tax element on sales return. However, the claim was not supported by the corresponding debit notes issued by the purchasers to the credit note of the dealers. Lack</p>

of scrutiny by assessing officer resulted in escapement of such omissions undetected. The short levy of tax on this account worked out to Rs.64.45 crore.

Audit observed that amongst the defaulters, M/s.T.V.Sundaram Iyenger & Sons Private Limited of Special Circle, Thiruvananthapuram was the biggest defaulter with tax effect of Rs. 44.20 crore.

Audit noticed that M/s.Nestle India Limited and M/s.Prism Cement Limited of Special Circle I, Ernakulam repeated the default for three years and M/s.T.V. Sundram Iyengar & Sons Private Limited of Special Circle, Thiruvananthapuram repeated the default for four years.

IV	(a) Does the Department agree with the facts and figures included in the paragraph?	Yes
	(b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	NA
V	(a) Does the Department agree with the Audit conclusions?	Yes
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents where necessary	NA

VI

## REMEDIAL ACTION TAKEN

(a)	Improvement in system and procedures, including internal controls.	<p><b>KOTTAYAM</b></p> <p><b>1. Kavanar Latex Limited/2012-13</b></p> <p>The audit team pointed out that on scrutinising the returns filed, the dealer had reversed OPT without furnishing requisite documents for tax effect of 0.17 crore. But on verification of the returns filed for the year 2012-13, it is noticed that the OPT reversed is for Rs. 5,32,630/- only. The dealer had produced entire documents to prove sales return for tax credit availed for Rs. 5,32,630/-. As such, there is no irregularity in reversal of OPT.</p> <p><b>2. MRF Ltd - 2012-13</b></p> <p>The audit team pointed out that on scrutinising the returns filed, the dealer had reversed OPT without furnishing requisite documents for tax effect of Rs. 0.09 crore. But as per the returns filed for the year 2013-14, it is noticed that the OPT reversed is Rs.2,90,837/- only. The dealer had produced entire documents to prove sales return. Hence no irregularity in reversal of OPT.</p>
(b)	Recovery of overpayment pointed out by audit	
(c)	Recovery of under assessment, short levy or other dues	
(d)	Modification in the schemes and programmes including financing pattern	
(e)	Review of similar cases / complete scheme / project in the light of findings of sample check by audit findings of sample check by audit.	

  
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 നികുതി വകുപ്പ്  
 ഗവൺമെന്റ് റിസൈറ്റ് പുസ്തകാലിക്ക്  
 തിരുവനന്തപുരം

### APPENDIX III

### Appendices from AGI's Audit Report

#### Appendix - I

(Ref: Paragraph 1.7.3)

#### Statement showing details of Special Circles and Works Contract offices where non production of files were noticed

Sl. No.	Name of office	Year in which it was to be audited	Number of assessment cases not submitted		
			VAT	KGST	Total
1	CTO, Special Circle, Alappuzha	2012-13	73	0	73
2	CTO, Special Circle, Kottayam	2014-15	42	4	46
3	CTO, Special Circle, Mattancherry	2014-15	44	0	44
4	CTO, Special Circle, Palakkad	2014-15	15	0	15
5	CTO, Special Circle, Perumbavoor	2014-15	40	0	40
6	CTO, Special Circle, Thrissur	2012-13	3	8	11
7	CTO, Special Circle, Thiruvananthapuram	2014-15	179	70	249
8	CTO, Special Circle I, Ernakulam	2014-15	126	5	131
9	CTO, Special Circle I, Kozhikode	2013-14	57	0	57
10	CTO, Special Circle II, Ernakulam	2014-15	150	12	162
11	CTO, Special Circle III, Ernakulam	2014-15	370	0	370
12	CTO (WC), Ernakulam	2014-15	736	0	736
13	CTO (WC&LT), Kannur	2011-12	58	0	58
14	CTO (WC&LT), Kattappana	2012-13	0	12	12
15	CTO (WC&LT), Mattancherry	2014-15	226	0	226
16	CTO (WC&LT), Kozhikode	2014-15	19	0	19
17	CTO (WC&LT), Kollam	2014-15	13	0	13
18	CTO (WC&LT), Palakkad	2014-15	55	0	55
19	CTO (WC&LT), Thrissur	2012-13	0	59	59
20	CTO (WC&LT), Thiruvananthapuram	2013-14	45	0	45
<b>Total</b>			<b>2,251</b>	<b>170</b>	<b>2,421</b>

**Appendix – II**

**(Ref: Paragraph 1.7.3)**

**Statement showing details of files not produced, circle/division with names of heads of offices**

Name of office	No. of files /Name of Head of office						
	2010-11	2011-12	2012-13	2013-14	2014-15	2014-15	2014-15
KGST	VAT	KGST	VAT	KGST	VAT	KGST	VAT
CTO, Special Circle, Kollam	Ajayaghosh Kumar 363	Ajayaghosh Kumar 55	Pratibha Jnanasundram Pratibha Jnanasundram	M. Gopal Krishnan I.S. SreeKumari	0 37	0 167	Belraj Kumar G. -
CTO Special Circle, Thiruvananthapuram				Pratibha Jnanasundram I.S. SreeKumari	Pratibha Jnanasundram		251
CTO Special Circle, Kannur	St. Tony Thomas (AC) 311	K. Sivaraman (AC) 0	86 34	394 33	0 344	70	179
CTO Special Circle (Produce), Mattancherry	P.D Unnikrishnan Nair (AC), C.K Vinoth, K.B. Sudha	P.D Unnikrishnan Nair (AC)	P.D Unnikrishnan Nair (AC), K. Sugathan (AC)	T.K. Ravendran (AC)	T.K. Ravendran (AC)	-	-
CTO Special Circle, Thrissur	G. Sarithoshi Kumar (AC) 268	0 41	274 -	44 -	271 0	1 4	318 3
CTO, Special Circle II, Emakulam	Mohammed Basheer (AC)	H. Muhammed Basheer (AC), S. Sivankutty (AC)	Sivankutty (AC)	K.P. Zelina (AC)	K.P. Zelina (AC)	Sivankutty (AC), K.P. Zelina (AC)	-
CTO Special Circle III, Emakulam	R.K. Sathesh Kumar (AC)	Sathish Kumar R.K. (AC), P.O. Thomas (AC)	Valsalapani (AC)	V.G. Umadevi (AC)	V.G. Umadevi (AC)	12 V.G. Umadevi (AC)	150

CTO Special Circle, Malappuram	179	34	220	28	220	28	0	27	0	370
			M. Gopala Krishana P. Narayanan Kutty		P. Narayanan Kutty	P. Narayanan Kutty			B. Anu	
	158	89	158	134	151	121	0	52	158	4
CTO Special Circle, Palakkad	55	57	K.C. Chandran	K.G. Rama Bai	V.S. Satyanarayanan				R. Rajesh	
CTO (WC&LT), Ernakulam	M.K. Hajra (AC)	M.P. Sajan (AC) N.R. Raghunathan (CTO)	M.K. Hajra (AC), K.A. Shahul Hameed, BT, Varghese, H, Mohammed Basheer	M.K. Hajra (AC), K.A. Shahul Hameed, BT, Varghese, H, Mohammed Basheer	P.K. Satheesh Kumar (AC)					15
	28	79	5	77	5	84	0	394	0	736
CTO, Vadakkara	T.M. Assainar 279	M. Suresh Babu 279	T.M. Assainar 270	-	G. Suchithra 270	11			K.K. Krishnan 21	30
CTO V Circle, Kozhikode	-	Bovas. K CTO	P.P Chandran CTO	-	G. Lorancee CTO	-	34-	0	Livy Jacintha CTO	
CTO (WC&LT), Mattancherry	K. Asokan (AC), P.I Poju (CTO), S. Omanakuttan (CTO), K.M. Sidu (CTO)	S. Omanakuttan (CTO)	M.P. Sajan (AC), N.R. Raghunathan (CTO)	A.V. Salila (AC) N.R. Raghunathan (CTO)				0	N. Santhoshkumar, CTO, Johnson Chacko, CTO	20
	68	138	72	200	65	177	19	174	0	226

**Appendix – III**

**(Ref: Paragraph 1.9)**

**Details of reviews featured in the Reports for the last five years and their status**

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
31 March 2009	Cross verification of purchase/ sale effected under KGST/ KVAT/CST Acts	5	<p>The Government may consider</p> <ul style="list-style-type: none"> <li>fixing targets for the intelligence officers for carrying out cross verification of records of the entry and exit check posts</li> <li>shifting the check post at Kunjipally to a more strategic location closer to the actual border with Mahe to arrest scope of evasion of tax</li> <li>prescribing a system of carrying out regular cross verification of declaration forms and issuing guidelines for checks to be conducted before accepting declaration forms</li> <li>issuing immediate orders withdrawing the waiver of tax, interest and penalty from the defaulting dealers</li> <li>making the internal audit wing functional and effective.</li> </ul>	<p>PA examined by PAC (15.09.2010) and their recommendations furnished in Report No. 9 (2011-14). The Committee agreed with the audit recommendation to fix targets for intelligence officers for carrying out cross verification of records and noted the impropriety in maintaining a check post at Kunjipally and recommended expansion of the checkpost at the entrance of Mahe and urged that the issue of uniform floor rate of tax between Kerala and Mahe be taken up with Govt of India. The Committee also noted that the internal audit wing of the department was ineffective.</p> <p>The Dept observed in the Action Taken Report that uniform floor rate for petrol and diesel was a recommendation of the empowered committee when VAT was implemented but the states are reluctant to implement it. Once implemented, Kerala will also be bound by the same. Checkpost at Kunjipally is maintained to avoid smuggling through the bye-route i.e., Kunjipally-Monthal Road. Shortage of staff makes it difficult to strengthen the Internal Audit Wing.</p>
Information technology		11	<p>Audit recommends that</p> <ul style="list-style-type: none"> <li>Officers should be nominated for effective liaison with NIC for</li> </ul>	<p>PA examined by PAC (04.01.2012) and their recommendations furnished in Report No.18 (2011-12).</p>

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
	review of Package for effective administration of registration laws (PEARL)	14	<ul style="list-style-type: none"> <li>completion and acceptance of the project of computerisation of Registration Dept.</li> <li>Validation of data should be given utmost priority.</li> <li>Individual databases should be merged and centralized.</li> <li>AMC conditions should be strictly enforced.</li> <li>Data backup policy should be revised. Offsite storage of daily backup should be made.</li> <li>Digitisation of documents should be commenced.</li> <li>A suitable Business Continuity/Disaster Management Plan should be formulated and implemented.</li> <li>A password policy should be formulated and compliance ensured.</li> <li>Environmental/physical access control weaknesses should be remedied in a timely fashion.</li> <li>Enactment required for the computerised operation should be made.</li> <li>A business process re-engineering should be done.</li> </ul>	<p>14). During the discussion, the Secretary Taxes stated that the department had developed a modified version of PEARL i.e., PEARL 3.1 rectifying the deficiencies pointed out by the Accountant General. Separate module for audit was also incorporated in the version.</p>
	Recovery of arrears of revenue under the Revenue Recovery Act	8	<ul style="list-style-type: none"> <li>The Government may prescribe a time limit/procedure to be followed by the RR officers for follow-up action on stay cases</li> <li>evolve a rational/scientific method in fixing targets and any shortfall in collection may be viewed critically</li> <li>insist that RRC should be reformed only after exploring all means of realising the arrears by the requisitioning departments</li> <li>direct the requisitioning department to resort to revenue recovery action only after the expiry of appeal period</li> <li>insist that the Excise Department should take care of the realisation of arrears under RR Act</li> <li>enforce the timeframe prescribed strictly and periodic reconciliation of the RR cases</li> <li>serve a copy of the notice to the concerned Sub Registrar under</li> </ul>	<p>PA examined by PAC (29.11.2012) and their recommendations furnished in Report No. 35/2011-14). The Committee noted that the performance of the Revenue Dept in RR collection was pathetic and urged that earnest efforts should be made to realise the amount due. The Committee also recommended a monitoring mechanism in this regard. The Committee reiterated the view of audit that the Excise Department should take care of realisation under RR in the cases under its purview.</p> <p>In their reply, the Revenue &amp; DM department stated that a special drive is conducted every financial year for stepping up revenue collection. Implementation of a State level online monitoring</p>

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			<p>his acknowledgement so as to comply with the provisions of the Transfer of Registry Rules 1966</p> <ul style="list-style-type: none"> <li>• dispense with the system of direct collection by requisitioning department after the commencement of RR action and in special schemes enabling direct collection, RRC should be recalled from the RR department.</li> </ul>	<p>system is in progress with the technical assistance of NIC. The Excise department submitted that they are carrying out enforcement activities under Abkari Act and NDPS Act and other relevant rules despite insufficient manpower.</p>
Transition from Sales Tax to VAT (standalone)	PA 16	The Government/Department may	<ul style="list-style-type: none"> <li>• introduce at the earliest a comprehensive manual of VAT specifying procedures for administration of Act and Rule</li> <li>• make provisions in the KVAT Rules for mandatory verification of records of Income Tax/Central Excise departments and TINXSYS while conducting audit assessments/assessment of escaped turnover</li> <li>• consider amendment of Act/Rules to make mandatory deposit of percentage of tax, interest and penalty in dispute, before entertaining appeal cases to ensure registration of genuine appeal cases only and lessen the scope of evasion/run away cases</li> <li>• amend the Act/Rules to fix a minimum penalty for each and every offence based on its magnitude to avoid unfettered discretion of the assessing officer.</li> <li>• effectively monitor disposal of pending assessments and collection of arrears of pre-VAT period</li> <li>• evolve a foolproof mechanism for detection of unregistered dealers and bring them under the tax net</li> <li>• publish in departmental website details of cancelled and suspended registrations to verify whether dealers avail ITC on goods purchased from such dealers</li> <li>• create a database for uploading the stock position of dealers for future reference</li> <li>• include an Audit Module in the KVATIS software</li> <li>• enforce strict compliance of the provisions regarding filing of the returns and prescribe specific penal provisions for delayed</li> </ul>	<p>PA examined by PAC (09.10.2013) and their recommendations furnished in Report No. 54 (2014-16). The Committee reiterated the audit recommendations regarding computerisation, development of an audit module in KVATIS, publication of a comprehensive Manual on KVAT, effective monitoring over completion of assessments of Pre-VAT period, compulsory registration of all dealers and amending the KVAT Act to strengthen the provision regarding imposition of penalty for first and subsequent offences.</p> <p>The department submitted that all the check posts having power supply, permanent building and connectivity are provided with online facility. Measures to rectify discrepancies in KVATIS are in progress. The department is putting in efforts to get the stay vacated by various courts to get the assessments of pre-VAT period completed.</p>

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			<ul style="list-style-type: none"> <li>• filing of returns to arrest cases of delayed/non-filing of returns</li> <li>• direct the AAs to conduct thorough scrutiny of the returns especially with reference to the figures of the enclosures to the audit certificate/P&amp;L account submitted by the dealers</li> <li>• take actions such as imposition of penalty, suspension of registration etc. against those who fail to furnish the prescribed documents along with the returns, without it being limited to levy of penalty alone</li> <li>• enforce compliance of time limit prescribed in the Act for disposal of the appeal cases</li> <li>• give direction to the AAs for maintenance of basic records in the circles</li> <li>• store details of monthly diary received from circles/check posts in computer so that they can consolidate and retrieve it, whenever required and thus avoid wastage of time and manpower in collecting the same data again</li> <li>• ensure that internal audit is strengthened.</li> </ul>	<p>PA Examined by PAC (30.07.2014) and their recommendations furnished in Report No. 89(2014-16). The Committee observed that there is necessity of forming a taxation wing and restructuring of staff pattern in the Transport department in order to strengthen the enforcement wing. It was advised that the department should put efforts into realising the arrears. A mechanism to ensure that the Tax payee invariably obtains a fitness certificate should be developed. It was suggested that effective measures should be chalked out to ensure that overloaded vehicles are either levied with compounding fee at higher rate or off loaded. The Committee recommended that penalty should be imposed on stage carriages which are exhibiting</p>
31 March 2010	Levy and collection of Motor Vehicles Tax	7	<p>The Government may consider</p> <ul style="list-style-type: none"> <li>• adequate change in the fee for duplicate driving licence covering the cost of card</li> <li>• strengthen the enforcement wing to plug the offences committed under motor vehicle laws</li> <li>• securing the computer servers by providing necessary passwords</li> <li>• strengthen the input controls and validation checks</li> <li>• ensuring the quality of the infrastructure developed by the service provider</li> <li>• consider ways to render prompt services to the public without delay</li> <li>• strengthening the internal control mechanism</li> </ul>	<p>PA Examined by PAC (30.07.2014) and their recommendations furnished in Report No. 89(2014-16). The Committee observed that there is necessity of forming a taxation wing and restructuring of staff pattern in the Transport department in order to strengthen the enforcement wing. It was advised that the department should put efforts into realising the arrears. A mechanism to ensure that the Tax payee invariably obtains a fitness certificate should be developed. It was suggested that effective measures should be chalked out to ensure that overloaded vehicles are either levied with compounding fee at higher rate or off loaded. The Committee recommended that penalty should be imposed on stage carriages which are exhibiting</p>

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
Working of Co-operation Department		7	<p>The Government may consider</p> <ul style="list-style-type: none"> <li>• devising suitable measures for monitoring the demand and levy of interest and penal interest</li> <li>• evolving appropriate mechanism for watching the realisation of dividend declared by the societies</li> <li>• strengthening the mechanism for watching the collection of guarantee commission</li> <li>• evolving a system for ascertaining the eligibility of beneficiaries before sanctioning the assistance</li> <li>• taking steps to avoid retention of huge amount received as loan from NCDC on behalf of beneficiaries in TP account for long period</li> <li>• taking effective steps for the realisation of amount under revenue recovery</li> <li>• issuing guidelines to improve the quality and functioning of internal audit wing.</li> </ul>	<p>PA Examined by PAC (27.08.2014) and their recommendations furnished in Report No. 94(2014-16). The Committee recommended that the department should scrutinise the loan proposal considering their viability before sanctioning a loan. The financial management in RUBCO and the functioning of KERAFED should be looked into. The Committee urged that necessary measures should be taken to impose financial discipline among cooperative societies and a restructuring strategy should be formulated. It was observed that there was delay in completing the liquidation proceedings by the department.</p> <p>Statement of action taken by the Department has not been received.</p>
31 March 2011	Compounding Schemes in Commercial Taxes Department	3	<p>The Government may consider</p> <ul style="list-style-type: none"> <li>• review of works contract compounding by a senior/supervisory officer</li> <li>• prescribing proper registers of implement IT systems to watch the details of dealers who have opted for payment of tax under the compounding scheme</li> <li>• conducting periodic inspection of metal crusher units to ascertain the number of units in the possession of the assessee from time to time.</li> </ul>	<p>PA examined by PAC (05.02.2015). Report has not been received.</p>

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
	Utilisation of declaration forms in inter-state trade	2	<p>The Government may consider</p> <ul style="list-style-type: none"> <li>issuing instructions regarding the checks to be carried out before accepting declarations for allowing concession/exemption</li> <li>strengthening the internal control mechanism.</li> </ul>	PA examined by PAC (26.02.2015). Report has not been received.
	Levy and collection of stamp duty and registration fee	7	<p>The Government may</p> <ul style="list-style-type: none"> <li>implement a time bound action plan to settle outstanding undervaluation cases</li> <li>consider creating awareness amongst public officers regarding their responsibility in respect of under stamped instruments produced before them</li> <li>consider an Economic Intelligence Unit to obtain data and verify that documents have been registered when due for the right value</li> <li>consider an amendment to the Kerala Stamp Act to include provision for collection of stamp duty on ad-valorem basis on issue of shares and levy of stamp duty on license agreements as lease.</li> <li>direct registering officers to insist on production of agreements relating to purchase/sale of flats at the time of registration</li> <li>making internal audit/inspection of sub offices mandatory and up to date</li> <li>inspection of public offices to plug leakage of revenue.</li> </ul>	PA examined by PAC (24.09.2014).
	Computerisation in motor vehicles department	3	<p>The Department may</p> <ul style="list-style-type: none"> <li>replace the existing system of storing data at independent servers in various locations with a centralised server system</li> <li>enable e-payment/online submission of application to facilitate online services</li> <li>consider recruiting qualified personnel to administer the IT applications.</li> </ul>	PA examined by PAC (13.05.2015). Report has not been received.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
Performance Audit of State Excise Dept(Standalone)	11	The Government/Department may	<ul style="list-style-type: none"> <li>• prepare a strategic plan covering mission, vision and objectives</li> <li>• ensure that security labels are printed under its direct supervision</li> <li>• take immediate steps to levy and recover the <b>permit fees</b> under Section 11 of the <b>Abkari Act</b> for the period from 2006-07 onwards</li> <li>• consider amending the Rules (like prescribing aerial distance) to ensure that the distance restriction principle of prohibiting functioning of bars near educational institutions, places of worship etc are applied in practice</li> <li>• immediately provide the required infrastructure support to the enforcement wing</li> <li>• prescribe norms for leakage of seized spirit and monitor adherence of such norms</li> <li>• start fresh toddy collection centres under direct supervision of the Excise Dept</li> <li>• take timely action to equip enforcement employees with arms, ammunition and provide other support facilities like boat</li> <li>• prescribe time limits for completion of chemical analysis and submission of test results</li> <li>• consider taking action to prescribe clear parameters for identifying natural or artificial toddy</li> <li>• carry out a work study to clearly assess the manpower needs.</li> </ul>	<p>PA examined by PAC (12.11.2014). Report has not been received.</p>
31 March 2012	Levy and collection of VAT on evasion prone commodities/areas in Commercial Taxes	5	The Government/Department may consider	<p>PA examined by PAC (07.10.2015). Report has not been received.</p> <ul style="list-style-type: none"> <li>• restoring and audit assessment wing, Commercial Investigation Wing, and strengthening the Internal Audit Wing to ensure compliance of the provision of the Acts and Rules</li> <li>• introducing a system of obtaining information periodically from other Departments/Boards etc. in respect of the persons registered with them and cross verify the same with KVATIS to trace the dealers whose turnover crossed the threshold limit</li> </ul>

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
	Department		<ul style="list-style-type: none"> <li>taking follow up action on goods brought into the state in view of its potential misuse of items covered by Form 16</li> <li>notifying the nature of transactions which would come under the scope of intangible and incorporeal good eligible to tax as featured in the schedule attached to the Maharashtra VAT Act</li> <li>taking timely action to revise floor rates in respect of evasion prone commodities.</li> </ul>	Action taken explanatory notes not received.
	Conduct of Lotteries in the State	5	<ul style="list-style-type: none"> <li>The Department may <ul style="list-style-type: none"> <li>ensure that provisions for ascertaining the genuineness of tickets before payment of prizes are observed</li> <li>pursue the cases with the crime branch for ensuring credibility</li> <li>finalise accounts of lotteries scheme wise for the efficient conduct of lotteries</li> <li>fix a timeframe for e-payment</li> <li>ensure a databank of all the persons involved directly or indirectly by making suitable provisions in the software LIMS.</li> </ul> </li> </ul>	Action taken explanatory notes not received.
31 March 2013	Performance Audit on Assessment, levy and collection of VAT on transfer of goods involved in the execution of works/supply contract	6	<ul style="list-style-type: none"> <li>The Government/Department may ensure that <ul style="list-style-type: none"> <li>separate identification numbers/codes are assigned to work contractors</li> <li>separate account subhead is provided for accounting receipts under works contracts</li> <li>regular survey and inter-departmental cross verification of data are conducted to identify the works contractors by strengthening the intelligence wing and suitable measures for registration are taken promptly</li> <li>valid documents in support of compounding are produced by the applicant timely</li> <li>internal control mechanism is adequate to plug revenue loss, detecting the defects/deficiencies promptly</li> <li>various declaration forms in support of claims for concession/exemptions are verified properly.</li> </ul> </li> </ul>	143

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
	Land Management by the Government of Kerala with special focus on land for Aramnia Airport and Smart City Kochi (Standalone)	13	<p>Audit recommends for</p> <ul style="list-style-type: none"> <li>• taking steps for effective implementation of the land management policy so as to generate maximum revenue to Government since the supply/availability of land is very limited</li> <li>• identifying and inventorising all government lands on a war footing by surveying and demarcating the land</li> <li>• prescribing and maintaining a register in the Taluk/District/Division level for noting the details of the lease such as order number, area under lease, name of the lessee, date of expiry of lease, periodical renewal details and demand, collection and balance of lease rent etc in respect of each lease</li> <li>• developing a mechanism to fix lease rent and renew the lease within the time period stipulated in Act/Rules and fix a mechanism to revise fair value of land at frequent intervals</li> <li>• prescribing a heavy fine and punitive action against those who violate lease conditions and initiate effective action against encroachment and prompt implementation of provisions of KLCA</li> <li>• fixing conditions for assignment of land on registry putting in place a reporting system from village level to Commissioner of Land Revenue level for monthly reporting of lease cases such as total cases, time expired cases, demand, collection and balance of lease rent, resumed cases under resumption procedure etc.</li> <li>• identifying and inventorising all forest lands on a war footing by surveying and demarcating the land</li> <li>• developing a mechanism to monitor and renew the lease/lease rent within the time period stipulated in Act/Rules</li> <li>• putting in place a mechanism to realise lease rent dues promptly</li> <li>• ensuring that agreements are executed in all lease cases.</li> <li>• conducting an in-depth study on the need for a fifth airport in the small state of Kerala and that too at Aramnula which is less than 150 Kms from Thiruvananthapuram and Kochi international airports</li> </ul>	Action taken explanatory notes not received.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			<ul style="list-style-type: none"> <li>conducting an in depth study on the impact of the project on the ecology/environment on the basis of the issues raised in the Reports of the Legislature Committee on Environment, Kerala State Biodiversity Board and the Expert Committee appointed by AAI and take effective action to resolve the impacts</li> <li>conducting an independent enquiry into the cases of violations of provisions of various Act/Rules including that of the secretariat departments occurred at all levels including that of the individual/company which supported the illegal acts of the individual/company</li> </ul>	Action taken explanatory notes not received.
Effectiveness	Value Added Tax Information System (KVATIS) in the Tax Administration of Commercial Taxes Department (Standalone)	20	<ul style="list-style-type: none"> <li>Business Rules regarding registration may be mapped properly to avoid acceptance of multiple registrations by the system unless specifically permitted by Commissioner of Commercial Taxes under Section 20(3).</li> <li>The system be updated to cover the risk of tax evasion by dealers having multiple registration, working out their aggregate turnover as specified in Section 20(4) of KVAT Act.</li> <li>Department may conduct periodical analysis of dormant registration numbers, other than application for temporary stoppage of business (vide Section 16), and take timely action for issuing notices for renewal or otherwise cancel the registration of dealers who had no business transactions for more than two years, to avoid misuse of Registration Certificate.</li> <li>System should generate appropriate alerts for renewal of Bank guarantees before its date of expiry and while dealers are effecting transactions.</li> <li>Necessary modifications may be made to the system to adequately capture the results of manual verification done by Assessing Officers.</li> <li>The department may provide adequate controls in the software to detect and alert the interstate transactions by cancelled dealers and the dealers who have not renewed their registration.</li> <li>Entering of valid registration numbers in the field for Consignee</li> </ul>	

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			<p>TIN/Consignor TIN in the e-declaration format for generating e-token may be made mandatory.</p> <ul style="list-style-type: none"> <li>System generated alerts needs to be devised for tracking consignment of goods in bulk quantity to prevent misuse of the facility for transporting consignments 'for own use' without payment of tax.</li> <li>The system should be enabled to provide information about the non-surrendered transit passes to authorities including the intelligence wing of the department so as to track such vehicle. Department may ensure that all business Rules are mapped to the system properly, that the system provides all necessary input and that there exists adequate process controls and validation checks to detect shortfalls in payment of tax.</li> <li>Government may consider strengthening KVATIS for monitoring the scrutiny of returns through it.</li> <li>The Department may incorporate a provision in the KVATIS to ensure that the closing stock shown in the certified accounts in Form 13-A of a year is correctly taken as the opening stock of the succeeding year.</li> <li>Proper controls be built into the system so that the system can scrutinise returns collecting details from different databases.</li> <li>Department/Govt may initiate early action for the upgradation of the present server which would be cost effective in terms of improvement of revenue realisation it would fetch.</li> <li>The Department may operationalise the Audit Assessment Module with suitable modifications for the selection of high risk dealers through KVATIS for detailed audit.</li> <li>The Department may initiate action to make use of other Modules so that the disposal of appeals, the nature of penalty levied, progress of collecting arrears etc can easily be monitored.</li> <li>Important/required MIS reports may be made available in the software.</li> <li>The Department may impart sufficient training to all officers</li> </ul>	

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			<p>and staff periodically.</p> <ul style="list-style-type: none"> <li>The upgradation of the present system/server which is slow, would be cost effective in terms of improvement of revenue realisation, which was one of the primary goals of implementation of KVATIS.</li> <li>The Department may lay down norms for check of physical records on the basis of reports generated through KVATIS indicating risk areas.</li> </ul>	

**Appendix -IV**

**(Ref: Paragraph 2.4.7.1 - bullet 1)**

**Details of dealers permitted to transport goods outside the State without taking registration**

Sl. No.	Name of the unregistered dealer who transported the goods to other States	Value of goods transported	Tax Due	Interest	Penalty	Total due
1	A.C.N.Tex Private Limited	1.81	0.0906	0.0172	0.1811	0.29
2	A.N.P Apparel	6.36	0.2181	0.0414	0.4362	0.7
3	Agni Apparels	0.4	0.0199	0.0038	0.0397	0.06
4	AKR Textile	8.7	0.4352	0.0827	0.8704	1.39
5	Akruthi Apparel	3.28	0.164	0.0312	0.328	0.52
6	Al Saj Convention Centre	0.1	0.0135	0.0026	0.027	0.04
7	Alagar Aparels	0.25	0.0124	0.0024	0.0247	0.04
8	Ambo Exports Ltd	12.33	0.6251	0.1188	1.2502	1.99
9	Antony	0.61	0.0562	0.0107	0.1124	0.18
10	Anushri Fashion India Private Limited	0.68	0.0339	0.0064	0.0678	0.11
11	Apex	0.48	0.024	0.0046	0.048	0.08
12	Apparel World	0.31	0.0155	0.003	0.0311	0.05
13	Arvind Limited	0.59	0.0293	0.0056	0.0587	0.09
14	AS Exports	0.32	0.0158	0.003	0.0315	0.05
15	Aswath Creations	0.48	0.0239	0.0045	0.0478	0.08
16	Authentik Export	0.33	0.0166	0.0032	0.0332	0.05
17	Ayva Apparels	0.22	0.0112	0.0021	0.0224	0.04
18	B.N.T Innovations Private Limited	1.33	0.0667	0.0127	0.1334	0.21
19	Benso Garmenting	0.43	0.0216	0.0041	0.0431	0.07
20	Benzer Trading India Pvt Ltd	0.66	0.0331	0.0063	0.0662	0.11
21	C.R Apparel	0.21	0.0103	0.002	0.0206	0.03
22	C.R.Garments	0.36	0.0181	0.0034	0.0362	0.06
23	Carona Industries (P) Ltd	0.41	0.0206	0.0039	0.0412	0.07
24	Cee Dee Garments	0.36	0.0178	0.0034	0.0356	0.06
25	Chippy Exports,	0.52	0.026	0.0049	0.052	0.08
26	D2D International	3.22	0.1611	0.0306	0.3222	0.51
27	Damodar Industries Ltd	0.77	0.0383	0.0073	0.0765	0.12
28	Different Shades	0.22	0.0112	0.0021	0.0224	0.04
29	Dollar Industries Limited	7.34	0.3672	0.0698	0.7344	1.17
30	East Coast Clothing Company Pvt Ltd	1.53	0.0763	0.0145	0.1526	0.24
31	Eastman Exports Global Clothing Pvt Ltd	7.44	0.3722	0.0707	0.7445	1.19
32	Elgi Equipments Ltd	0.32	0.0429	0.0081	0.0857	0.14
33	ESS Gee Garments	0.29	0.0146	0.0028	0.0292	0.05
34	Essel Shyam Communication Limited	0.15	0.0199	0.0038	0.0399	0.06
35	Exel Sourcing Company	0.57	0.0284	0.0054	0.0569	0.09

Sl. No.	Name of the unregistered dealer who transported the goods to other States	Value of goods transported	Tax Due	₹ in crore		
				Interest	Penalty	Total due
36	Exim Trade	0.76	0.0378	0.0072	0.0757	0.12
37	Fair And Flair Garments,	7.23	0.3616	0.0687	0.7232	1.15
38	<b>Fashion (Asia) Pvt Ltd</b>	<b>0.23</b>	<b>0.0116</b>	<b>0.0022</b>	<b>0.0231</b>	<b>0.04</b>
39	Fashion Gate	2.77	0.1386	0.0263	0.2771	0.44
40	Finefair India Pvt Ltd	0.9	0.045	0.0085	0.0899	0.14
41	Flower Knitting Mills	0.26	0.0131	0.0025	0.0262	0.04
42	Gangai Garments	2.54	0.1271	0.0242	0.2543	0.41
43	Gates Wears	0.44	0.0221	0.0042	0.0443	0.07
44	Geetha Garments P.N.Road	0.64	0.0867	0.0165	0.1734	0.28
45	Gene Apparels	1.65	0.0826	0.0157	0.1652	0.26
46	Girnar Food & Beverages Pvt Ltd,	0.24	0.012	0.0023	0.024	0.04
47	Gowtham Knit Garments	0.49	0.0244	0.0046	0.0487	0.08
48	<b>Green Field Apparels,</b>	<b>0.22</b>	<b>0.0108</b>	<b>0.0021</b>	<b>0.0217</b>	<b>0.03</b>
49	Green Way Clothing	0.97	0.0487	0.0093	0.0975	0.16
50	<b>HHA Tank Terminal Pvt Ltd</b>	<b>0.06</b>	<b>0.016</b>	<b>0.003</b>	<b>0.032</b>	<b>0.05</b>
51	Hue Chem Textiles Pvt Ltd	2.71	0.1355	0.0258	0.2711	0.43
52	IDP Shipping Services	0.21	0.0103	0.0019	0.0205	0.03
53	<b>J S Fashions (International ) Pvt Ltd</b>	<b>0.27</b>	<b>0.0133</b>	<b>0.0025</b>	<b>0.0266</b>	<b>0.04</b>
54	Japan International	3.25	0.1751	0.0333	0.3502	0.56
55	Jaya Valli Fashions,	0.21	0.0107	0.002	0.0213	0.03
56	JCB India Ltd	0.2	0.027	0.0051	0.054	0.09
57	Jeena & Co	0.61	0.0307	0.0058	0.0615	0.1
58	JFK International	0.32	0.0158	0.003	0.0316	0.05
59	<b>K Nisha</b>	<b>0.1</b>	<b>0.0141</b>	<b>0.0027</b>	<b>0.0282</b>	<b>0.04</b>
60	K.M.Garments	0.2	0.0101	0.0019	0.0201	0.03
61	K.P.R Mill Limited	9.14	0.4571	0.0869	0.9143	1.46
62	K T Garments	1.05	0.0524	0.01	0.1047	0.17
63	Karapaghram Tex	1.28	0.0642	0.0122	0.1285	0.2
64	Karvy Data Management Services Ltd	0.51	0.0257	0.0049	0.0514	0.08
65	Kgi Clothing Pvt Ltd	3	0.1502	0.0285	0.3005	0.48
66	<b>KM Textiles</b>	<b>0.32</b>	<b>0.0162</b>	<b>0.0031</b>	<b>0.0325</b>	<b>0.05</b>
67	Knit Home Garments	0.69	0.0344	0.0065	0.0688	0.11
68	Knit India Inc	0.31	0.0156	0.003	0.0313	0.05
69	Krillo Garments	1.18	0.0588	0.0112	0.1176	0.19
70	Lara Knit Wear	1.03	0.0513	0.0097	0.1025	0.16
71	Laxmi Garments	0.6	0.0298	0.0057	0.0596	0.1
72	Leeds Fashion	0.3	0.0152	0.0029	0.0305	0.05

*Audit Report (Revenue Sector) for the year ended 31 March 2015*

Sl. No.	Name of the unregistered dealer who transported the goods to other States	Value of goods transported	Tax Due	Interest	Penalty	Total due
73	Leela Hotel	0.1	0.0129	0.0025	<b>0.0258</b>	0.04
74	Limtex (India) Ltd	2.17	0.1087	0.0207	0.2175	0.35
75	Lux Industries Ltd	1.15	<b>0.0574</b>	0.0109	0.1147	0.18
76	M.S.M Spermo Knit Wear	0.3	0.0152	<b>0.0029</b>	0.0305	0.05
77	MAF Clothing Pvt Ltd	1.59	0.0796	0.0151	0.1592	0.25
78	Mectech Inifabs Pvt Ltd	7.68	0.3838	0.0729	0.7675	1.22
79	Merredz Garments	0.21	0.0103	<b>0.002</b>	0.0207	0.03
80	MG Cotton Company Pvt Ltd	0.49	0.0246	0.0047	0.0491	0.08
81	Midas Creation	0.55	0.0274	0.0052	0.0547	0.09
82	Morning Staar Apparels	0.71	0.0353	0.0067	<b>0.0706</b>	0.11
83	Mr Harilal	0.14	<b>0.0184</b>	0.0035	0.0368	0.06
84	Mr Karthik	0.14	0.0185	0.0035	0.037	0.06
85	Mr O R Venu Gopalan	0.14	0.0184	0.0035	0.0369	0.06
86	Mr Vijaykumar	0.14	<b>0.0187</b>	0.0035	0.0373	<b>0.06</b>
87	Mr. Sudheer T S	0.14	0.0187	0.0036	0.0374	0.06
88	Nagreeka Exports Limited	0.45	0.0225	0.0043	0.0451	0.07
89	Naseema	0.13	<b>0.0182</b>	<b>0.0035</b>	<b>0.0364</b>	<b>0.06</b>
90	Network Clothing Company Pvt Ltd	0.68	0.034	0.0065	0.068	0.11
91	Next Generation Clothing Pvt Ltd	0.91	0.0453	0.0086	0.0907	0.14
92	Norman Yong Engineering Products Private Ltd	0.14	0.0194	0.0037	0.0387	0.06
93	Npol	0.19	0.0257	0.0049	0.0513	0.08
94	Oasis Exporters	0.13	0.0179	0.0034	0.0358	0.06
95	OCC Apparels India Private Limited	0.48	<b>0.0241</b>	0.0046	0.0481	<b>0.08</b>
96	P A James	0.14	0.0191	0.0036	0.0382	0.06
97	PKP Tex	0.43	0.0216	0.0041	0.0431	0.07
98	Prateek Apparels Pvt Ltd	1.84	0.0919	0.0175	<b>0.1838</b>	0.29
99	Proline Exports Pvt Ltd	1.06	0.053	0.0101	0.106	0.17
100	Prospper Exports	0.38	0.0192	0.0036	0.0383	0.06
101	PTR Garments	0.83	<b>0.0413</b>	0.0078	0.0826	0.13
102	Rakesh	0.14	<b>0.0187</b>	<b>0.0036</b>	<b>0.0374</b>	<b>0.06</b>
103	Ravi Garments	0.52	0.0258	0.0049	0.0516	0.08
104	Rearl Fashions	0.27	0.0133	0.0025	0.0265	0.04
105	Reia Fashions	1.11	<b>0.0553</b>	<b>0.0105</b>	<b>0.1106</b>	0.18
106	Rgi Clothing Pvt Ltd	0.67	0.0334	0.0063	0.0667	0.11
107	Ridha Fashions,	0.24	0.0118	0.0022	0.0236	0.04
108	Roots Impex	1.19	0.0594	0.0113	0.1189	0.19
109	S Kesavan	0.12	0.0158	0.003	0.0316	0.05
110	Sairam Garments	0.21	0.0104	0.002	0.0208	0.03
111	Samridhi E-Seva Solution Pvt Ltd	0.28	0.0141	0.0027	0.0283	0.05
112	Sangeetha Creations	0.39	0.0193	0.0037	0.0387	0.06

Sl. No.	Name of the unregistered dealer who transported the goods to other States	Value of goods transported	Tax Due	₹ in crore			Total due
				Interest	Penalty		
113	Sarayana Agency	0.12	0.0159	0.003	0.0317		0.05
114	SE Garments	0.29	0.0143	0.0027	0.0286		0.05
115	Seagull Clothing	0.54	0.027	0.0051	0.0541		0.09
116	Shah Brothers	1.83	0.0913	0.0173	0.1826		0.29
117	Shiny Knitwear	2.37	0.1183	0.0225	0.2366		0.38
118	Siddhi Apparel House	1.63	0.0816	0.0155	0.1632		0.26
119	Silk Fashion Exports	1.14	0.0572	0.0109	0.1143		0.18
120	SKL Exports	0.28	0.0141	0.0027	0.0281		0.04
121	Sonia Exports	0.51	0.0256	0.0049	0.0512		0.08
122	Spice Islands Apparels Ltd	0.38	0.0192	0.0036	0.0384		0.06
123	SPL Textile	1.79	0.0894	0.017	0.1788		0.29
124	Sri Venkateswara Diatilaries	0.15	0.01379	0.0262	0.2759		0.44
125	Sri Anuragavi Garments	0.7	0.035	0.0067	0.07		0.11
126	Stowa Garments	0.22	0.011	0.0021	0.022		0.04
127	Subhash Wires & Cables Pvt Ltd	0.55	0.0274	0.0052	0.0549		0.09
128	Sudhan Trading ( P ) Ltd	0.41	0.0206	0.0039	0.0412		0.07
129	Sukumaran	0.14	0.0189	0.0036	0.0377		0.06
130	Suregaa Exports (Prop S P K Selvakumar)	0.21	0.0106	0.002	0.0211		0.03
131	Suvidhee Apparels	1.65	0.0827	0.0157	0.1655		0.26
132	Swaraj Fashions	0.61	0.0305	0.0058	0.061		0.1
133	Swarna Kaleeswara Knitting	0.91	0.0455	0.0086	0.091		0.15
134	Swathi Creations	0.39	0.0196	0.0037	0.0391		0.06
135	Swift Merchandise	0.27	0.0136	0.0026	0.0273		0.04
136	T.S. Sudheer	0.14	0.0187	0.0036	0.0374		0.06
137	Team Knits	1.14	0.0572	0.0109	0.1144		0.18
138	Team Sport Clothings (K.P Ramasamy)	0.83	0.0413	0.0078	0.0826		0.13
139	Tex India Apparels	0.53	0.0265	0.005	0.0529		0.08
140	Texwin Impex	0.24	0.0121	0.0023	0.0242		0.04
	<b>Total</b>	<b>156.82</b>	<b>8.3445</b>	<b>1.5859</b>	<b>16.6887</b>		<b>26.61</b>

Appendix -V

(Ref: Paragraph 24.7.6 - bullet 1)

**Details of accounted sales escaped assessment**

Sl. No.	Office Name	Name of assessee	Other receipts not returned	Tax Due	Interest Due	Penal Interest	Penalty	₹ in crore)		
								TIN/Year	Rate of tax	Total due
1	CTO, Special Circle I, Ermakulam	Godrej & Boyce Mfg. Co. Ltd/ 32070248212/2013-14	5.75 / 5% -10/ 14.5% -90	0.7795	0.1091	0.2183	1.5589			2.67
2		Benetton India Private Limited/ 32070286989/2013-14	0.2415 / 5% - 87.50 / 14.50% - 12.50	0.0149	0.0021	0.0042	0.0298			0.05
3		Amararaja Batteries Ltd/ 32071542682/2013-14	2.83 / 14.5% -	0.4097	0.0574	0.1147	0.8194			1.4
4		Arvind Retail Ltd/ 32070283007/2013-14	5.41 / 5% -96 14.5% -4	0.2912	0.0408	0.0815	0.5824			1
5		Eveready Industries India Ltd / 32070249944/2013-14	5.65 / 5% -34 14.5% -66	0.6368	0.0892	0.1783	1.2737			2.18
6		Asian Paints Ltd./ 32070289814/2013-14	4.18 / 14.5% -	0.6058	0.0848	0.1696	1.2116			2.07
7		Havells India Limited/ 32070220885/2013-14	8.09 / 5% -42 14.5% -58	0.8507	0.1191	0.2382.	1.7015			2.91
8		Nestle India Limited/ 32070216745/2013-14	21.15 / 5% -28 14.5% -72	2.5038	0.3505	0.7011	5.0077			8.56
9	CTO, Special Circle II, Ermakulam	Wipro GE Health Care (P) Ltd/ 32070319705/2013-14	7.53 / 5% -99/ 14.5% -1	0.3838	0.0537	0.1075	0.7676			1.31
10		Supernax Personal Care Pvt. Ltd/ 32070310839/2012-13	3.39 / 13.5% -	0.4575	0.1119	0.2379	0.9151			1.73

Sl. No.	Office Name	Name of assessee	Other receipts not returned	Tax Due	Interest Due	Penal Interest	Penalty	(₹ in crore)	
								Rate of tax	Total due
11		Supernax Personal Care Pvt. Ltd./ 32070310839/ 2013-14	5.41 / 14.5%	0.7851	0.1099	0.2198	1.5702	2.69	
12	CTO, Special Circle III, Emakulam	Reliance Trends Limited/ 320704222103/ 2013-14	14.82 / 5% <sub>6</sub> -98 14.5% <sub>6</sub> -2	0.7692	0.1077	0.2154	1.5385	2.63	
13		Tata Autocomp GY Batters (P) Ltd./ 32071313204/ 2013-14	1.86 / 14.5%	0.2696	0.0377	0.0755	0.5392	0.92	
14	CTO, Special Circle Mattancherry at Aluva	Berger Paints India Ltd./ 32150272994/ 2013-14	2.71 / 5% <sub>6</sub> -2/ 14.5% <sub>6</sub> -98	0.3882	0.0543	0.1087	0.7764	1.33	
15		Hindustan Unilever Limited/ 32150254454/ 2013-14	97.14 / 1% <sub>6</sub> -97.5% 8/ 14.5% <sub>6</sub> -83	12.1671	1.7034	3.4068	24.3342	41.61	
16		Beacon Power Systems/ 32150812882/ 2013-14	0.2018 / 14.5%	0.0293	0.0041	0.0082	0.0585	0.1	
17		Orma Marble Palace / 32150236364/ 2013-14	4.27 / 5% <sub>6</sub> -3 14.5% <sub>6</sub> -97	0.607	0.085	0.17	1.214	2.08	
18	CTO, Special Circle, (Produce) Mattancherry	Tata Coffee Limited/ 32150341855/ 2013-14	3.17 / 5% <sub>6</sub> -92/ 14.5% <sub>6</sub> -8	0.1828	0.0256	0.0512	0.3655	0.63	
19	CTO, Special Circle, Kottayam	Muthooti Traders/ 32050977142/ 2013-14	0.1823 / 14.5%	0.0264	0.0037	0.0074	0.0529	0.09	
20	CTO, Special Circle, Palakkad	Kunnath Paper Mills Pvt. Ltd./ 32090221945/ 2013-14	19.82 / 5%	0.9911	0.1388	0.2775	1.9822	3.39	
21		Paragon Steels (P) Ltd./ 32090250802/ 2013-14	5 / 5%	0.2501	0.035	0.07	0.5002	0.86	

Sl. No.	Office Name	Name of assessee	Other receipts not returned	Tax Due	Interest Due	Penal Interest	Penalty	Total due (₹ in crore)	
								Rate of tax	Total due (₹ in crore)
22	CTO, Special Circle, Thiruvananthapuram	T.V. Sundaram Iyengar & Sons Ltd./ 32010188782/2013-14	<u>3.9 / 5% - 22</u> <u>14.5% - 78</u>	0.4837	0.0677	0.1354	0.9674	1.65	
23	CTO, Special Circle I, Kozhikode	KVN Impex (P) Ltd./ 32110288424/2013-14	<u>40.28 / 5%</u> <u>41.29 / 5% - 83</u>	2.014	0.282	0.5639	4.028	6.89	
24	CTO, I Circle Kalamassery	P P Tyres and Traders/ 32071293336/2013-14	<u>0.1323 / 5% - 03</u> <u>14.50 - 99.97</u>	0.0192	0.0027	0.0054	0.0384	0.06	
25	CTO II Circle, Kalamassery	Ajas N.S/ 32071311382/2013-14	<u>41.29 / 5% - 83</u> <u>14.5% - 17</u>	2.7316	0.3824	0.7648	5.4631	9.34	
26	CTO, Aluva	AVT Natural Products Ltd. 32150355052/2013-14	<u>3.56 / 5%</u> <u>14.5% - 98</u>	0.509	0.0713	0.1425	1.018	1.74	
27		Janatha Trading Corporation/ 32150217172/2013-14	<u>3.09 / 14.5%</u>	0.4481	0.0627	0.1255	0.8962	1.53	
28	CTO, II Circle, Kottayam	Amala Super Market/ 32050649856/2013-14	<u>0.1162 / 20%</u> <u>0.341% - 2.90</u> <u>5% - 5.92</u> <u>14.50% - 20.85</u> <u>0% - 69.99</u>	0.004	0.0006	0.0011	0.0079	0.01	
29		Sabas Rubbers/ 32050698952/2013-14	<u>0.1029 / 5%</u>	0.0051	0.0007	0.0014	0.0103	0.01	
30	CTO, II Circle, Tripunithura	Reliance Digital Retail Ltd./ 32070465808/2013-14	<u>11.94 / 5% - 53</u> <u>14.5% - 47</u>	1.1297	0.1582	0.3163	2.2593	3.86	
		Total		323.22	30.744	4.3592	8.7181	61.4881	105.30

## Appendix - VI

(Ref: Paragraph 2.4.7.6 - bullet 3)

## Details of turnover of goods exempted without mentioning the nature

S. No.	Name of Office	Name of assessee TIN/year	Exemption claimed for local sales Rate of tax	Tax Due	Interest Due	Penalty	Total due	Reply of the Assessing officer	Remarks (₹ in crore)
1	CTO, Special Circle I, Ernakulam	Pest Control (India) Pvt. Ltd. 32070287182/2012-13	<u>6.50</u> 5.00%	0.3250	0.0845	0.6500	1.06	Reply not received	Final reply not received
2		G.H. Associates 32071594972/2011-12	<u>2.22</u> 12.50%	0.2770	0.1053	0.5540	0.94	Pre assessment notice based on the Audit observation was issued	Final reply not received
3		Ashok Leyland Ltd 32071200174/2013-14	<u>2.09</u> 14.50%	0.3029	0.0424	0.6058	0.95	Pre assessment notice based on the Audit observation was issued	Final reply not received
4	CTO, Special Circle II, Ernakulam	Indian Oil Corporation Ltd. 32070300862/2011-12	40.88 12.50%	5.1104	1.9420	10.2208	17.27	Replied that the exemption is on High sea sales, but no documents submitted by the dealer in support of the claim	Final reply not received
5		Indian Oil Corporation Ltd. 32070300862/2012-13	<u>147.83</u> 13.50%	19.9576	5.1890	39.9153	65.06	Replied that the exemption is on High sea sales, but no documents submitted by the dealer in support of the claim	Final reply not received
6		Indian Oil Corporation Ltd. 32070300862/2013-14	<u>150.58</u> 5% 14.5% 95	21.1189	2.9567	42.2379	66.31	Replied that the exemption is on High sea sales, but no documents submitted by the dealer in support of the claim	Final reply not received
7		HCL Infosystems Limited 32070312742/2011-12	<u>0.62</u> 12.50%	0.0780	0.0296	0.1560	0.26	Pre assessment notice based on the Audit observation was issued	Final reply not received
8		HCL Infosystems	<u>0.92</u>	0.1247	0.0324	0.2495	0.41	Pre assessment notice based	Final reply not

*Audit Report (Revenue Sector) for the year ended 31 March 2015*

Sl No.	Name of Office	Name of assessee TIN/year	Exemption claimed for local sales Rate of tax	Tax Due	Interest Due	Penalty	Reply of the Assessing officer		Remarks
							Total due	on the Audit observation was issued	
9	Limited 32070312742/2012-13		13.50%						Received
10	Concorde Motors India Ltd 32070314002/2011-12		<u>3.19</u> 12.50%	0.3988	0.1515	0.7976	1.35	Reply not received	Final reply not received
11	Concorde Motors India Ltd 32070314002/2012-13		<u>3.17</u> 13.50%	0.4286	0.1114	0.8571	1.40	Reply not received	Final reply not received
12	Concorde Motors India Ltd 32070314002/2013-14		<u>2.18</u> 14.50%	0.3158	0.0442	0.6316	0.99	Reply not received	Final reply not received
13	Associated Chemicals Industry 32070390794/2012-13		<u>5.57</u> 5.00%	0.2783	0.0724	0.5566	0.91	Pre assessment notice based on the Audit observation was issued	Final reply not received
14	Lulu International Shopping Mall (P) Ltd. 32070393922/2013-14		<u>1.81</u> 5%+23 14.5%+77	0.2229	0.0312	0.4458	0.70	Pre assessment notice based on the Audit observation was issued	Final reply not received
15	Aswin Paper Company 32071774972/2013-14		<u>5.30</u> 5.00%	0.2651	0.0371	0.5303	0.83	Pre assessment notice based on the Audit observation was issued	Final reply not received
16	Popular Vehicles and Services Ltd. 32070401234/2011-12		<u>35.77</u> 12.50%	4.4706	1.6988	8.9413	15.11	Reply not received	Final reply not received
17	Popular Vehicles and Services Ltd. 32070401234/2012-13		<u>37.71</u> 13.50%	5.0904	1.3235	10.1808	16.59	Reply not received	Final reply not received
18	Usha International Ltd. 32070428752/2011-12		<u>2.37</u> 4%+15	0.2659	0.1011	0.5319	0.90	Reply not received	Final reply not received
19	Eonmetal Timbers 32070455144/2011-12		<u>2.62</u> 12.50%	0.3279	0.1246	0.6557	1.11	Reply not received	Final reply not received
20	Rubber Mark 32070491155/2011-12		<u>14.25</u> 4.00%	0.5699	0.2166	1.1397	1.93	Reply not received	Final reply not received
	Rubber Mark		<u>1.46</u>	0.0731	0.0190	0.1462	0.24	Reply not received	Final reply not

Sl No	Name of Office	Name of assessee TIN/year	Exemption claimed for local sales Rate of tax	Tax Due			Penalty	Total due	Reply of the Assessing officer	Remarks
				Interest Due	Tax Due	Interest Due				
21		32070491155/2012-13 V-Star Creations Pvt Ltd. 32070438652/2013-14	5.00% 0.19 5.00%	0.0096	0.0013	0.0192	0.03	Replied that the exemption is discount allowed through invoices.		verified and found that there were quantitative invoices also, which is taxable. Revised observation was issued. Final reply not received
22		Wipro Limited 32070439912/2013-14	5.56 5.00%	0.2781	0.0389	0.5561	0.87	Reply not received		Final reply not received
23	CTO, Special Circle, Kottayam	Francis Trading Company 32050859984/2011-12	6.51 4.00%	0.2605	0.0990	0.5210	0.88	Reply not received		Final reply not received
24		JMJ Traders 32051107555/2013-14	61.87 5.00%	3.0937	0.4331	6.1875	9.71	Reply not received		Final reply not received
25	CTO, Special Circle, Thiruvananthapuram	SML Isuzu Limited 32010181345/2011-12	5.69 12.50%	0.7114	0.2703	1.4227	2.40	Reply not received		Final reply not received
26		S.V. Granite and Tiles 32011020112/2013-14	16.97 5.00%	0.8485	0.1188	1.6969	2.66	Reply not received		Final reply not received
27	CTO, Special Circle, Mattancherry	Hindustan Unilever Limited 32150254454/2011-12	9.12 12.50%	1.1401	0.4333	2.2803	3.85	Pre assessment notice issued based on the Audit observation		Final reply not received
28			1.08 4.00%	0.0432	0.0164	0.0863	0.15	Pre assessment notice issued based on the Audit observation		Final reply not received
29		Hindustan Unilever Limited 32150254454/2012-13	12.80 13.50%	1.7284	0.4494	3.4568	5.63	Pre assessment notice issued based on the Audit observation		Final reply not received

Sl No.	Name of Office	Name of assessee TIN/year	Exemption claimed for local sales Rate of tax	Tax Due	Interest Due	Penalty	Reply of the Assessing officer		(₹ In crore) Remarks
							Total due	Pre assessment notice issued based on the Audit observation	
30		Hindustan Unilever Limited 32150254454/2012-13	1.30 5.00%	0.0650	0.0169	0.1301	0.21	Pre assessment notice issued based on the Audit observation	Final reply not received
31	CTO, Special Circle, Palakkad	Ruchi World Wide LTD. 32090600992/2011-12	32.78 4.00%	1.3112	0.4982	2.6223	4.43	Reply not received	Final reply not received
32	CTO, Special Circle I, Kozhikode	Wipro Enterprises Limited 32110227707/2013-14	3.87 5% 44 14.5% 56	0.3995	0.0559	0.7991	1.25	Reply not received	Final reply not received
33	CTO, I Circle, Ernakulam	LIA Marketing 32071555192/2013-14	1.36 14.50%	0.1972	0.0276	0.3944	0.62	Pre assessment notice issued based on the Audit observation	Final reply not received
34	CTO, II Circle, Kannur	Mathewsons Food Specialities Private Limited 32071354626/2013-14	2.53 14.50%	0.3669	0.0514	0.7339	1.15	Reply not received	Final reply not received
35	CTO, II Circle, Kannur	National Handloom Devp Corp Ltd 32120627185/2011-12	9.07 4.00%	0.3628	0.1379	0.7256	1.23	Pre assessment notice issued based on the Audit observation	Final reply not received
36		National Handloom Devp Corp Ltd 32120627185/2012-13	30.44 5.00%	1.5218	0.3957	3.0437	4.96	Pre assessment notice issued based on the Audit observation	Final reply not received
37		National Handloom Devp Corp Ltd 32120627185/2013-14	3.25 5.00%	0.1626	0.0228	0.3252	0.51	Pre assessment notice issued based on the Audit observation	Final reply not received
				671.45	72.5025	17.3801	145.0049	234.89	

## Appendix -VII

(Ref: Paragraph 2.4.7.6 - bullet 4)

## Details of irregular exemption of sales to units situated in special economic zone

Sl. No.	Name of Office	Name of assessee TIN/Year	Name of the Goods sold to SEZ	Exemption Claimed for Local Sales Rate of Tax	Tax Due	Interest Due	Penalty	Total due	Reply of the Assessing Officer	Remarks (₹ in crore)
1	CTO, Special Circle II, Ernakulam	Blue Star Limited 32070302335/2011-12	Works contract on Air condition installation	7.46 12.50%	0.9328	0.3545	1.8655	3.15	Replied that the work is executed in SEZ and the exemption is supported by Form 43 certificate	The reply is not acceptable since the work of air conditioning is not covered under Sec.6(7) of KVAT Act
2		Blue Star Limited 32070302335/2012-13	Works contract on Air condition installation	8.04 13.50%	0.0852	0.2822	2.1704	3.54	Replied that the work is executed in SEZ and the exemption is supported by Form 43 certificate	The reply is not acceptable since the work of air conditioning is not covered under Sec.6(7) of KVAT Act
3		Blue Star Limited 32070302335/2013-14	Air Conditioners and Works contract on Air-condition installation	11.40 14.50%	1.6529	0.2314	3.3057	5.19	Reply not received	Final reply not received

Sl. No.	Name of Office	Name of assessee TIN/Year	Name of the Goods sold to SEZ	Exemption Claimed for Local Sales Rate of Tax	Tax Due	Interest Due	Penalty	Total due	Reply of the Assessing Officer	Remarks
									(₹ in crore)	(₹ in crore)
4	Bharat Petroleum Corporation Ltd 32070398984/2011-12	Petroleum furnace oil		11.27 12.50%	1,4086	0.5353	2,8172	4.76	Replied that bitumen is used as raw materials to produce certain goods and furnace oil is an industrial input used in the running of boilers	The reply is partially acceptable. Bitumen case is accepted. In the case of industrial inputs, the goods are specified in List A to III Schedule and furnace oil is not specified there. Hence the Original objection revised.
5	Bharat Petroleum Corporation Ltd 32070398984/2012-13	Petroleum furnace oil		9.89 13.50%	1,3356	0.3473	2,6712	4.35	Replied that bitumen is used as raw materials to produce certain goods and furnace oil is an industrial input used in the running of boilers	The reply is partially acceptable. Bitumen case is accepted. In the case of industrial inputs, the goods are specified in List A to III Schedule and furnace oil is not specified there. Hence the Original objection revised.
6	Bharat Petroleum Corporation Ltd 32070398984/2013-14	Petroleum furnace oil, LPG (Comm)		14.25 14.50%	2,0663	0.2893	4,1327	6.49	Reply not received	Final reply not received
7	CTO, Special Circle III, Ermakulam	Primus Gloves Pvt Limited 32070429955/2012-13	surgical equipments, bandages	4.86 5.00%	0.2432	0.0632	0.4864	0.79	Reply not received	Final reply not received

Sl. No.	Name of Office	Name of assessee TIN/Year	Name of the Goods sold to SEZ	Exemption Claimed for Local Sales	Tax Due	Interest Due	Penalty	Total due	Reply of the Assessing Officer	Remarks (₹ in crore)
8	SFO Technologies Digital Pvt Ltd. 32070415803/ 2011-12	electronic goods	20.38 12.50%	2.5476	0.9681	5.0953	8.61	Reply not received	Final reply not received	
9	SFO Technologies Digital Pvt Ltd. 32070415803/ 2012-13	electronic goods	3.26 13.50%	0.4402	0.1144	0.8804	1.44	Reply not received	Final reply not received	
10	CTO, II Circle Kalamassery	Surgical equipments	6.36 4.00%	0.2544	0.0661	0.5088	0.83	Replied that the files were not yet transferred to the office. Hence the Audit observation were not verified	Final reply not received	
11	Leela Soft Pvt Ltd 3207041906/2011-12	Electronic goods, furniture, lubricants	1.53 12.50%	0.1912	0.0727	0.3825	0.65	Replied that the files were not yet transferred to the office. Hence the Audit observation were not verified	Final reply not received	
12	Leela Soft Pvt Ltd 3207041906/2011-12	Electronic goods, furniture, lubricants	1.79 4.00%	0.0717	0.0186	0.1434	0.23	Reply not received	Final reply not received	
13	Outsource Partners International Pvt Ltd 32071382201/2013-14	Health drinks	0.18 14.50%	0.0259	0.0036	0.0517	0.08	Reply not received	Final reply not received	
14	CTO(WC), Ernakulam	Honey Automation India Ltd 32072013472/2012-13	Electronic goods	6.11 13.50%	0.8247	0.2144	1.6495	2.69	Reply not received	Final reply not received
15	Honey Automation India Ltd 32072013472/2013-14	Electronic goods	2.18 14.50%	0.3167	0.0443	0.6334	0.99	Reply not received	Final reply not received	
	<b>TOTAL</b>		<b>108.97</b>	<b>13.3971</b>	<b>3.6055</b>	<b>26.7942</b>	<b>43.80</b>			

**Appendix - VIII**

**(Ref: Paragraph 2.4.7.6 - bullet 5)**

**Details of turnover exempted without furnishing the statutory documents**

Sl. No.	Name of office	Name of assessee TIN/Year	Nature of exemption	Turnover of Exemption Claimed	Tax Due	Interest Due	Penalty	Total due	Reply of the Assessing Officer	Remarks
				Rate of Tax %						(₹ in crore)
1	CTO, Special Circle I, Ernakulam	Prism Cement Limited 32070239223/2011-12	SEZ Sales	5.20 12.50	0.6499 0.2168	0.2469 0.8340	1.2997 1.6680	2.20 2.72	Reply not received Reply not received	Final reply not received
2		Prism Cement Limited 32070239223/2012-13	SEZ Sales	6.18 13.50	0.8340 0.0955	0.2168 0.0134	1.6680 0.1910	2.72 0.30	Reply not received Pre assessment notice issued based on the objection	Final reply not received
3	CTO, Special Circle II, Ernakulam	Lulu International Shopping Mall (P) Ltd. 3207039222/2013-14	Medicine II sale	1.91 5.00	0.0955 0.0438	0.0134 0.0114	0.1910 0.0875	0.30 0.14	Reply not received	Final reply not received
4	CTO, Special Circle III, Ernakulam	Primus Gloves Pvt Limited 32070429955/2012-13	SEZ Sales	0.88 5.00	0.0438 0.0114	0.0114 0.0875	0.1910 0.14	0.30 0.14	Reply not received	Final reply not received
5	CTO, (Produce), Mattanchery	Harrisons Malayalam Limited 3215032210/2011-12	Tea Auction	55.51 4.00	2.2202 0.8437	0.8437 4.4404	7.50	7.50	Reply not received	Final reply not received
6		Tata Coffee Limited 32150341855/2011-12	Tea Auction	29.55 4.00	1.1819 3.6118	0.4491 0.4695	2.3638 3.6118	3.99	Reply not received	Final reply not received
7		Tata Coffee Limited 32150341855/2012-13	Tea Auction	36.12 5.00	1.8059 0.00	0.4695 0.00	5.89	5.89	Reply not received	Final reply not received
8		Forbes 321503444904/2011-12	Tea Auction	15.17 4.00	0.6067 0.2305	0.2305 1.2133	2.05	2.05	Reply not received	Final reply not received
9		Forbes 321503444904/2012-13	Tea Auction	18.16 5.00	0.9079 0.2361	0.2361 1.8158	2.96	2.96	Reply not received	Final reply not received

Sl. No.	Name of office	Name of assessee TIN/Year	Nature of exemption	Turnover of Exemption Claimed	Tax Due	Interest Due	Penalty	Total due	Reply of the Assessing Officer	Remarks
									Rate of Tax %	
10		J.Thomas &Co.Pvt Ltd. 32150391625/2011-12	Tea Auction	19.41 4.00	0.7766 0.2951		1.5531	2.62	Reply not received	Final reply not received
11		J.Thomas &Co.Pvt Ltd. 32150391625/2012-13	Tea Auction	23.28 5.00	1.1639 0.3026		2.3278	3.79	Reply not received	Final reply not received
12		Parry Agro Industries Ltd 32150398915/2011-12	Tea Auction	66.54 4.00	2.6617 1.0114		5.3233	9.00	Reply not received	Final reply not received
13		Parry Agro Industries Ltd 32150398915/2012-13	Tea Auction	79.15 5.00	3.9576 1.0290		7.9152	12.90	Reply not received	Final reply not received
14	CTO, Special Circle Kozayam	JMJ Traders 32051107585/2011-12	High Sea Sales	211.44 4.00	8.4575 0.0106		3.2139	16.9151	28.59 Reply not received	Final reply not received
15		JMJ Traders 32051107585/2011-12	SEZ Sales	0.27 4.00	0.0040 0.0212		0.04	0.04	Reply not received	Final reply not received
16		JMJ Traders 32051107585/2012-13	High Sea Sales	139.53 5.00	6.9767 1.8139		13.9533	22.74	Reply not received	Final reply not received
17		St Marys Rubbers Private Limited 32050276346/2013-14	SBZ Sales	5.75 5.00	0.2874 0.0402		0.5748	0.90	Reply not received	Final reply not received
18	CTO, Special Circle Thiruvananthapuram	Amrita Enterprises (P), Ltd 32010108524/2011-12	Medicine II sale	71.95 4.00	2.8780 1.0936		5.7559	9.73	Reply not received	Final reply not received
19		K.N. Mathew Sons 32010142735/2011-12	Medicine II sale	15.36 4.00	0.6142 0.2334		1.2285	2.08	Pre assessment notice issued based on the objection	Final reply not received
20	CTO, Special I Circle Kochikode	Kerala Trade Wing 32110665535/2012-13	Medicine II sale	32.92 5.00	1.6461 0.4280		3.2922	5.37	Reply not received	Final reply not received

Sl. No.	Name of office	Name of assessee TIN/Year	Nature of exemption	Turnover Claimed Rate of Tax %	Tax Due	Interest Due	Penalty	Total due	Reply of the Assessing Officer	Remarks
									(₹ in crore)	
21	CTO, I Circle, Ernakulam	LIA Marketing 32071555192/2013-14	Medicine II sale	1.61 5.00	0.0807	0.0113	0.1614	0.25	Reply not received	Final reply not received
22	CTO, I Circle, Kalamassery	Sneha Distributors Pvt Ltd 32070208274/2011-12	Medicine II sale	30.26 4.00	1.2102	0.4599	2.4205	4.09	Replied that the files were not yet transferred to the office. Hence the objections were not verified	Final reply not received
23		Sneha Distributors Pvt Ltd 32070208274/2012-13	Medicine II sale	30.53 5.00	1.5265	0.3969	3.0530	4.98	Replied that the files were not yet transferred to the office. Hence the objections were not verified	Final reply not received
24	CTO, II Circle, Kalamassery	Uni Pharma 32070227264/2011-12	Medicine II sale	14.92 4.00	0.5968	0.2268	1.1935	2.02	Replied that the files were not yet transferred to the office. Hence the objections were not verified	Final reply not received
25		Uni Pharma 32070227264/2012-13	Medicine II sale	14.27 5.00	0.7135	0.1855	1.4269	2.33	Replied that the files were not yet transferred to the office. Hence the objections were not verified	Final reply not received
26		Outsource Partners International Pvt Ltd. 32071382201/2013-14	SEZ Works Contract	2.29 14.50	0.3324	0.0465	0.6648	1.04	Reply not received	Final reply not received
27	CTO, II Circle, Kottayam	Kottayam Drug House 32050283995/2011-12	Medicine II sale	32.03 4.00	1.2811	0.4868	2.5622	4.33	Reply not received	Final reply not received
28		Kottayam Drug House 32050283995/2012-13	Medicine II sale	33.70 5.00	1.6849	0.4381	3.3699	5.49	Reply not received	Final reply not received
29	CTO, (WC), Kozhikode	M/s Malabar Builders India Limited 32522961115/2012-13	Sub Contract work	10.45 3.00	0.3135	0.0815	0.6271	1.02	Reply not received	Final reply not received
30		M/s Home land builders 32111573464/2013-14	Sub Contract	1.11 3.00	0.0334	0.0047	0.0669	0.10	Reply not received	Final reply not received

Sl. No.	Name of office	Name of assessee TIN/Year	Nature of exemption	Turnover of Exemption Claimed Rate of Tax %	Tax Due	Interest Due	Penalty	Total due	Reply of the Assessing Officer	Remarks (₹ in crore)
31	M/s Apollo Build Tec India (P) Ltd 32111574906/2013-14	Sub Contract work	0.71 3.00	0.0213	0.0030	0.0426	0.07	Reply not received	Final reply not received	
32	M/s Monarch Builders and Developers 32111500893/2013-14	Sub Contract work	1.57 3.00	0.0471	0.0066	0.0942	0.15	Reply not received	Final reply not received	
			<b>1007.71</b>	<b>45.6174</b>	<b>14.5302</b>	<b>91.2348</b>	<b>151.38</b>			

**Appendix -IX**

**(Ref: Paragraph 2.4.7.6 - bullet 9)**

**Details of irregular claim of exemption by contractors opted for compounding**

Sl. No.	Name of office	Name of assessee TIN/Year	Exemption Claimed in respect of sale value of land	Tax Due	Interest Due	Penalty	Total Due
			Rate of Tax %				
1	CTO (WC), Palakkad	Classic Builders 32091640863/2010-11	0.32 3.00	0.0095	0.0005	0.0190	0.03
2		Classic Builders 32091640863/2012-13	0.48 3.00	0.0143	0.0037	0.0287	0.05
3		Pazheri Properties & Developers (P) Ltd 32091608709/2011-12	0.29 3.00	0.0088	0.0034	0.0177	0.03
4		Pazheri Properties & Developers (P) Ltd 32091608709/2012-13	0.25 3.00	0.0075	0.0019	0.0150	0.02
5		Pazheri Properties & Developers (P) Ltd 32091608709/2013-14	0.12 3.00	0.0035	0.0005	0.0069	0.01
6		Chanthankulam Projects & Developers (P) Ltd 32091659717/2011-12	0.79 3.00	0.0238	0.0091	0.0477	0.08
7		Chanthankulam Projects & Developers (P) Ltd 32091659717/2012-13	0.73 3.00	0.0219	0.0057	0.0437	0.07
8		Rajan K 32589750916/2012-13	2.49 3.00	0.0747	0.0194	0.1493	0.24
9	CTO (WC), Kannur	Sreerosh Properties (P) Ltd 32121266804/2012-13	1.03 3.00	0.0309	0.0080	0.0618	0.10
10		Sreerosh Properties (P) Ltd 32121266804/2013-14	4.70 3.00	0.1411	0.0198	0.2822	0.44
11		SB Developers 32121208045/2011-12	0.38 3.00	0.0115	0.0044	0.0230	0.04
12		SB Developers 32121208045/2012-13	0.40 3.00	0.0121	0.0031	0.0242	0.04
13	CTO (WC), Kozhikode	Beeline Builders and Developers Pvt. Ltd. 32111511849/ 2012-13	0.18 3.00	0.0053	0.0014	0.0107	0.02
14		M/s Pentium Construction 32111514595/2011-12	3.74 3.00	0.1122	0.0426	0.2244	0.38
15		M/s Pentium Construction 32111514595/2012-13	1.63 3.00	0.0489	0.0127	0.0977	0.16
16		M/s Hilite Builders 32111555084/2010-11	6.57 3.00	0.1971	0.0986	0.3942	0.69
17		M/s Hilite Builders 32111555084/2011-12	4.93 3.00	0.1479	0.0562	0.2957	0.50
18	CTO (WC), Ernakulam	M/s Jayaraj Properties 32072015935/2010-11	0.20 3.00	0.0060	0.0030	0.0120	0.02
19		M/s Oxoniya Builders and Developers (P) Ltd	0.52 3.00	0.0155	0.0022	0.0310	0.05

Sl. No.	Name of office	Name of assessee TIN/Year	Exemption Claimed in respect of sale <u>value of land</u>	Tax Due	Interest Due	Penalty	(₹ in crore)
			Rate of Tax %				Total Due
20		32072022628/2013-14					
		M/s Sophia Builders 32072048605/2013-14	1.49 3.00	0.0447	0.0063	0.0895	0.14
21		M/s Sophia Builders 32072048605/2012-13	1.90 3.00	0.0570	0.0148	0.1141	0.19
			<b>33.14</b>	<b>0.9942</b>	<b>0.3171</b>	<b>1.9884</b>	<b>3.30</b>