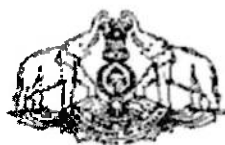


**FIFTEENTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2023-26)**

**NINETY FIFTH REPORT**

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



**SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM**

2026

**FIFTEENTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2023-26)**

**NINETY FIFTH REPORT**

on

Paragraphs relating to Taxes Department contained in the Report of the  
Comptroller and Auditor General of India (Revenue Sector) for the year  
ended 31<sup>st</sup> March 2016

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**COMMITTEE ON PUBLIC ACCOUNTS (2023-26)**  
**COMPOSITION**

**Chairperson :**

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**Members :**

Shri. Manjalamkuzhi Ali

Shri. M. V. Govindan Master.

DR. K.T. Jaleel

Shri. C.H. Kunhambu

Shri. Mathew T. Thomas

Shri. M. Rajagopalan

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Shri. Thomas K. Thomas

Shri. K.N. Unnikrishnan

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**Legislature Secretariat**

DR. N. Krishna Kumar, Secretary

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 ninety fifth Report on paragraphs relating to Taxes Department contained in the Report of the Comptroller and Auditor General of India (Revenue Sector) for the year ended 31<sup>st</sup> March 2016.

The Report of the Comptroller and Auditor General of India (Revenue Sector) for the year ended 31<sup>st</sup> March 2016 was laid on the Table of the House on 6<sup>th</sup> March 2017.

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.

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



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

**REPORT**  
**TAXES DEPARTMENT**

**2.5. Levy, assessment and collection of VAT on sub-contracts under works contract assessment**

**2.5.1 Introduction**

Under the KVAT Act, 2003 a dealer engaged in the execution of works contract shall pay tax under Section 6(1) of the Act. He may, at his option, pay tax at compounded rate<sup>1</sup> on the whole contract amount as provided for under Section 8(a) of the Act on the whole amount of the contract.

As per Explanation I under Section 8(a) of the KVAT Act, 2003 where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction in respect of such sub contracted amount furnishes certificate prescribed under the Act. The sub-contractors have to concede the contractual receipts received from the principal contractor/awarder in their annual returns.

**2.5.2 Audit objective and scope**

Audit was conducted to ascertain whether there is evasion of tax by the principal contractors and/or the sub contractors in respect of sub contracted works and the reasons thereof.

The audit was conducted in the works contract (WC) offices in four<sup>2</sup> tax districts between May 2016 and August 2016 covering the period 2012-13 to 2014-15. The stratified sampling method was used to select the revenue districts and assessees. The records such as returns, certified accounts, statutory documents as prescribed in KVAT Rules, 2005 etc., filed by the

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<sup>1</sup> At three per cent up to 31 March 2014 and thereafter at seven per cent in case of works contractors with CST Registration

<sup>2</sup> Thiruvananthapuram, Mattancherry, Ernakulam and Kannur.

contractors/ sub-contractors were verified. An entry conference was held with Special Secretary, Taxes in May 2016 in which Audit objective, scope and methodology were explained. An exit conference was held with the Additional Chief Secretary, Taxes on 06 September 2016.

### **2.5.3 Audit findings**

#### **2.5.3.1 Turnover escaped assessment**

Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the(4.5 receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.

In four assessment circles<sup>3</sup>, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of ₹26.37 crore as detailed in **Appendix III(1)**. The assessment circle wise position is as detailed in Table 2.10.

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3 CTO (WC) Thiruvananthapuram, Mattancherry, Ernakulam and Kannur.

**Table -2.10**

(₹ in lakh)

Sl. No.	Name of the Office	Number of cases	Short levy			
			Tax	Interest	Penalty	Total
1.	CTO (WC), Thiruvananthapuram	19	294.59	81.67	589.12	965.38
2.	CTO III Circle, Thiruvananthapuram	02	2.38	0.62	4.75	7.75
3.	CTO (WC), Kollam	01	19.11	4.97	38.22	62.30
4.	CTO (WC), Malappuram	01	1.70	0.38	3.39	5.47
5.	CTO (WC), Thrissur	01	0.63	0.16	1.25	2.04
6.	CTO (WC), Alappuzha	01	3.70	1.33	7.39	12.42
7.	CTO (WC), Ernakulam	29	249.36	68.25	498.70	816.31
8.	CTO (WC), Mattancherry	06	59.58	19.38	119.16	198.12
9.	CTO (WC), Palakkad	03	78.87	16.18	157.74	252.79
10.	CTO (WC), Kozhikode	01	1.95	0.51	3.89	6.35
11.	CTO (WC), Kottayam	02	17.86	4.65	35.72	58.23
12.	CTO (WC), Kannur	01	18.65	4.66	37.31	60.62
13.	CTO II Circle, Perumbavoor	01	25.02	6.51	50.05	81.58
14.	CTO (WC), Kasaragod	01	13.57	3.53	27.14	44.24
15.	CTO II Circle, Mattancherry	01	1.55	0.22	3.10	4.87
16.	CTO (WC), Idukki	01	17.87	4.65	35.75	58.27
	<b>Total</b>	<b>71</b>	<b>806.39</b>	<b>217.67</b>	<b>1,612.68</b>	<b>2,636.74</b>

The highest defaulting sub contractors were as detailed in Table -2.11.

**Table - 2.11**

(₹ in lakh)

Sl. No.	Name of the Office	Name of the assessee/TIN	Year(s)	Turnover escaped assessment	Short levy of tax, interest and penalty
1	CTO (WC), Thiruvananthapuram	Albert Raj/ 32011385815	2010-11 to 2014-15	820.73	359.79
2	CTO (WC), Palakkad	M/s. Consolidated Construction Corporation/ 32091656804	2012-13 & 2014-15	2,105.37	201.76
3	CTO (WC), Ernakulam	M/s. Fujitec India Pvt. Ltd./ 32072037737	2014-15	363.15	165.34
4	CTO (WC), Ernakulam	M/s PT Mathai Construction Co. Pvt. Ltd/ 32072025565	2012-13 to 2013-14	1,195.58	118.72

On this being pointed out (August, 2016) in the exit conference the Additional Chief Secretary (Taxes) instructed the Department to examine the

instances on a case by case basis and assured that action would be taken in all cases after due verifications.

**[Audit paragraphs 2.5, 2.5.1, 2.5.2, 2.5.3 & 2.5.3.1 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2016 (Revenue Sector)]**

**[Notes received from the Government on the above audit paragraphs are included as Appendix-II]**

**Excerpts from the discussion of the Committee with officials concerned**

(1) The Committee enquired about the present status of revenue recovery proceedings initiated in connection with the 28 cases specified in the Appendix III(1) of the audit report. The Additional Commissioner of the GST Department reported that the recovery proceedings for Delco Projects were underway, and the dealer was obligated to remit an amount of ₹42.12 lakh. Regarding the case related to M/s.V. K Viju, the Additional Commissioner stated that an amount of ₹2.74 lakh was pending recovery, and the revenue recovery measures initiated for this case were progressing. Regarding the case related to M/s P.T Mathai Construction Co Pvt Ltd, revenue recovery measures were in progress for an amount of ₹4.65 lakh. In connection with the objection related to M/s. TAAK Constructions in Ernakulam District, the dealer had settled their dues under the Amnesty Scheme. Regarding the case related to M/s Yeskay Constructions, the Additional Commissioner, GST Department informed that the dealer was required to remit ₹15.11 lakh, and the corresponding revenue recovery actions were ongoing. Regarding V B Electrotech India Pvt. Ltd, the Additional Commissioner, GST Department informed that the assessment had been modified and the dealer had to remit an amount of ₹2.76 lakh. The present status of the case would be provided after checking the details. When the Committee expressed its displeasure over the inordinate delay in completing the revenue recovery proceedings, the Additional Commissioner,

GST Department informed that in certain cases the recommendations for revenue recovery proceedings were reverted from the Revenue Department and revised demand had to be provided in that cases and that would also cause a delay in finalising the revenue recovery proceedings. Regarding the observation related to Modern Plumbing, the Additional Commissioner, GST Department informed that an additional demand of ₹22.68 lakh had been created and the revenue recovery measures initiated in connection with it was progressing and the collection details regarding it was not currently available.

(2) Regarding the case related to M/s Align Builders, the Additional Commissioner, GST Department informed that the dealer had to remit an amount of ₹1.20 lakh in the financial year 2013-14 and ₹1.88 lakh in 2014-15. The revenue recovery measures initiated in connection with it was progressing. Regarding the case related to Sherin Hi-Fabs, the Additional Commissioner, GST Department submitted that the revenue recovery measures initiated for recovering the dues related to the financial year 2013-14 were in progress and the dealer had remitted the arrears during the financial year 2014-15 under the Amnesty Scheme.

(3) While discussing the audit observation related to KVJ Builders, & Developers Pvt. Ltd, the Additional Commissioner, GST Department indicated that the revenue recovery measures initiated to recover dues amounting to ₹17.05 lakh were currently underway. Regarding the case related to the Impact Equipments, the Additional Commissioner, GST Department informed that the appeal filed by the dealer had been dismissed. A report requested related to the revenue recovery proceedings in that matter had yet to be submitted. In connection with the case related to Chaithanya Homes, the Additional Commissioner, GST Department submitted that the dealer had opted the Amnesty Scheme for settling the dues. Regarding the case related to M/s P.K. Viswambaran & C, the Additional Commissioner,

GST Department informed that the appeal put forth by the dealer had been approved by the Appellate Authority, and there remained no outstanding demands. In response to a query from the Committee regarding the Appellate Authority, the witness clarified that the Deputy Commissioner (Appeals) was functioning in that capacity. Regarding the case related to Hope Constructions, the Additional Commissioner, GST Department submitted that the dealer had opted the Amnesty Scheme. Then the Under Secretary, Legislature Secretariat brought to the attention of the Committee that the information had not been included in the report presented to the Committee. The Committee directed the Department to submit a revised report in that regard. In connection with the case related to Consolidated Construction, the Additional Commissioner, GST Department submitted that revenue recovery measures for the financial years 2013-14 and 2014-15 were ongoing. Regarding the case related to BBR (India) Ltd., the Additional Commissioner, GST Department informed that in that case, revenue recovery measures were being managed by the District Collector from another State.

(4) The Committee expressed its dissatisfaction with the lack of responsiveness exhibited by the officials in providing pertinent responses during the witness examination. The Committee directed the Department to provide details concerning the current status of the 28 cases in which revenue recovery had been initiated, including the aforementioned cases. Furthermore, the Committee requested that a report be collected from the Revenue Department regarding the rationale for not advancing recovery measures in instances where revenue recovery proceedings have been pending for an extended duration. Additionally, the Committee instructed that a report be obtained from the relevant revenue recovery officials to elucidate the reasons for delays in concluding the revenue recovery proceedings, and the report should be submitted to the Committee

expeditiously.

(5) The Additional Commissioner, GST Department indicated that there is a pending demand of ₹78.56 crore, with revenue recovery proceedings actively progressing in 33 cases aimed at recovering an amount of ₹19.61 crore, while the demand cases of ₹51.71 crore is currently stayed. He assured the Committee that comprehensive details regarding those cases would be submitted within one week. The Senior Audit Officer highlighted that revised notices would be issued in instances where a second appeal has been granted in favor of the dealer for recovering the reduced amount, which necessitates additional time to finalize the recovery process and consequently leads to delays in the completion of the revenue recovery proceedings. The Additional Commissioner, GST Department informed that in most of the cases as the dealers opt Amnesty Scheme-2024, the amount recovered through revenue recovery proceedings would be reduced.

(6) The Committee also directed to submit the present status of revenue recovery proceedings and to collect and submit a report regarding the reason for not proceeding recovery procedures. The Committee also directed to expedite the recovery procedures and to submit the reason for the delay in finalising those procedures. The Additional Commissioner stated that a report would be submitted following reconciliation with the relevant collectorates.

(7) Regarding the cases related to Cherian Varkey Construction Company Pvt. Ltd., V.K. Johny, VC Constructions, Cemex Projects, GKR Associates and Zion Glass, the Committee enquired about the reason for not collecting the arrears even though additional demands were created. The Additional Commissioner, GST Department submitted that the demand had been modified in the said cases and the amounts received in each fiscal year, irrespective of the gross sum, were recorded as a fixed percentage in accordance with accounting standards. The Committee wanted a clarification



on the additional demand that had been created in the above cases, the Additional Commissioner, GST Department clarified that an additional demand of ₹80,84,030 was created in connection with Cherian Varkey Construction. Accountant General's objection pertained to a short levy of tax; however, the assessing authority contended that the amount stipulated by accounting standards was not included. An explanation on this matter was requested from the assessing authority (Joint Commissioner (Ernakulam)). To a query of the Committee regarding the modification of additional demand, the Additional Commissioner, GST Department informed that the additional demand had been established to address general defects, while no demand had been raised in relation to the specific objections highlighted by the Accountant General. As that explanation was not accepted by the Accountant General, a clarification was sought and the reply stated that as per the accounting standards, the total turnover tax was generated for the succeeding years and the steps taken to overcome that defect on the basis of amount calculated on accounting standard for each year was sought further. He also stated certain reasons for the delay in submitting the reports. When the Committee enquired which point in AG's objection was not agreeable to the Department, the Additional Commissioner supplemented that when an objection was pointed out by the Accountant General in a point, if no other cases were raised in the matter and if the objection is acceptable, additional demand was created. If AG's objection was not sustainable, Assessing Authority may check for any other defects/objections and if it persists, additional demand was created. The Committee highlighted that the audit objection indicated that collections were pending in cases where additional demands had been created and requested specific details concerning the collection particulars. The Additional Commissioner, GST Department stated that the collection particulars were not currently available. In response to further inquiry, he noted that the additional demand was established in

2020. When the Committee questioned the reason for the absence of collection details after a lapse of four years, the Additional Commissioner reiterated that the additional demand had not been established based on the specific objections detailed by the Accountant General. Consequently, the necessary details were not collected, and the assessing authority remarked that the audit observation relating to the subcontract in Cherian Varkey case was not sustainable.

(8) The Committee directed the Department to submit a report regarding the present status of revenue recovery measures initiated in connection with the above mentioned cases and the collection particulars related to Cherian Varkey Construction, V. K. Johny, V. C. Constructions, Cemex Projects, GKR Associates and Zion Glass in which additional demands have been created.

(9) The Committee further enquired about the present status of the court cases released to Cochin Engineering, Nutech Builders, AAG India, Fujitec and Celestial, the Additional Commissioner, GST Department, submitted that the cases involving Cochin Engineering, AAG India, Fujitec, and Celestial are currently pending before the court, while the assessment for Nutech Builders has been revised in accordance with the Tribunal's order. The Committee directed the Department to submit the present status of cases filed in the court and the details regarding the collection particulars in the case of Nutech Builders at the earliest. The Additional Commissioner, GST Department agreed to do so.

(10) Regarding the case related to Advance Engineering and Infrastructure Pvt Ltd, 32072044544, 2014-15, CTO (WC), Ernakulam, the Additional Commissioner, GST Department submitted that the Hon'ble High Court had set aside the assessment order. The Committee directed the Department to submit the copy of the court order to substantiate the reply within 21 days. In connection with the case related to M/s GRTECH Services(32072021054), 2013-14, CTO (WC), Ernakulam, the Additional

Commissioner, GST Department submitted that the audit observation was not sustainable. The change in the accounting standards showed a difference of ₹0.41 crore and a report had been sought in that regard. The Senior Audit Officer pointed out that the reply did not clarify the amount of the subcontract receipts. The Committee observed that the reply failed to specify the exact subcontract receipts received and that the documents substantiating the taxation of such receipts were not provided by the Department. Consequently, the Committee directed the Department to furnish the documents demonstrating that the exact subcontract receipts received in other years were indeed subject to taxation. The Additional Commissioner agreed to do so.

(11) In connection with the case related to M/s Greenworth Infrastructures Pvt. Ltd, (32072097341), 2012-13, & 2013-14, CTO (WC), Ernakulam and M/s Nirman Engineers (32072087744), 2014-15, CTO (WC), Ernakulam, the Committee observed that the reply neither specify the exact subcontract receipts received, nor were the supporting documents indicating that those receipts were subjected to taxation submitted by the Department. The Committee instructed the Department to provide documents that verifies that the specific subcontract receipts for the concerned years were indeed subject to tax. The Additional Commissioner agreed to do so. Regarding the case related to K.J Sebastian (32072078125), 2013-14, CTO (WC), Ernakulam, the Additional Commissioner informed that the payment was given for the financial year 2013-14 but the sub contractor had included that amount in the 2012-13 financial year itself. The Committee directed the Department to furnish the supporting documents to substantiate the reply within 21 days. The Additional Commissioner agreed to do so.

(12) Regarding the cases related to M/s. Automation Asia Associates Pvt. Ltd, the Additional Commissioner, GST Department submitted that the Assessing Authority had determined that the total turnover amounting to

₹2.99 crore for the financial year 2013-14 included ₹40 lakh related to M/s Heera Constructions. Furthermore, ₹35 lakh included in the turnover for the financial year 2014-15 was also related to M/s Heera Constructions. The Senior Audit Officer noted the absence of reconciliation statements. In response, the Additional Commissioner assured that the reconciliation statements, along with other pertinent supporting documents, would be submitted to the Accountant General. Regarding the case related to K T Mathew and Company, the Additional Commissioner, GST Department submitted that a revised report was requested due to inaccuracies in the initially submitted report. The Committee instructed the Department to provide a corrected report addressing the audit observations at the earliest. The Additional Commissioner agreed to do so. In connection with the case related to Athira Industries, the Additional Commissioner, GST Department stated that the audit observation was not sustainable. The Committee directed the Department to submit the copy of the Form 20 F. While discussing the case related to Nakshathra Builders, the Additional Commissioner, GST Department submitted that the verification of the Assessing Authority had been completed. In 2014-15, the contract receipt of ₹3 lakh only had been received. In addition, a receipt and amount had also been received from M/s Heera constructions. He assured that the copies of the return filed would be submitted. Regarding the case related to M/s Cordial Foundation Pvt. Ltd, the Additional Commissioner, GST Department informed that Kerala State Construction Corporation Limited had issued a certificate stating that it was happened due to an error and not the liability of Cordial Foundation. The Committee directed to submit a revised reply in that regard and the Additional Commissioner, GST Department agreed to submit the report. Regarding the case related to City Aluminium Fabricator the Additional Commissioner, GST Department submitted the assessing authority had found that the Accountant General could not identify revision of return for the 3<sup>rd</sup>

quarter and the revised return would be submitted before the Accountant General for verification.

(13) The Committee accepted the reply furnished by the Department in connection with M/s Grasshopper, M/s A & P Infra, M/s Seguro Foundations, Colour Consultants, M/s AB – Tek Constructions, J Abdul Vahid, M/s Alpha One-Hi Tech Infra Pvt. Ltd., K A Johnson, M/s Shobha Projects and Trade Pvt. Ltd., M/s. Sumeru Constructions, M/s Anu Constructions, M/s Cordial Company, M/s Flytech Industries, A. Shaji, T.A. Abdul Rehman, Mohammad Aslam, M/s M &T Constructions, M/s. Bridgeway Engineering, M/s Cheerans Structural, E M Shaji and Basic Engineering System.

#### **Conclusions/ Recommendations**

(14) The Committee expresses its displeasure over the undue delay in completing the revenue recovery proceedings and directs the Department to take necessary actions to accelerate the process. The Committee also directs the Department to collect a detailed report from the concerned Revenue Authorities regarding the reasons for the delay in completing the recovery proceedings and to submit it before the Committee within two months.

(15) The Committee is concerned with the lack of responsiveness on the part of the officials in providing pertinent responses during the witness examination and directs the Department to provide a comprehensive report regarding the current status of revenue recovery proceedings including details such as amount, pendency, District etc., initiated in connection with M/s Delco Projects, M/s V K Vijju, M/s P T Mathai, M/s Creators, M/s TAAK, M/s Yeskay Constructions, M/s V B Electrotech India Pvt Ltd, M/s Modern Plumbing System, M/s Align Builders, M/s Sherin Hi- Fabs, K.V.J Builders & Developers Pvt Ltd, M/s Impact Equipments, Chaithanya Homes, M/s P K Viswambharan

**&C, Hope constructions, M/s Consolidated construction Corporation, M/s BBR (India) Ltd, Anilkumar G, M.P Sadanandan, M/s. Decor Delight, M/s Falcon Interiors, Albert Raj, Gopinathan Nair, G S Builders & Connectors Pvt. Ltd, M/s Marvel Floorings, cynosure power Systems, M/s. Aqua designs India Pvt, Ltd, Shri G Santhosh kumar.**

**(16) The Committee directs the Department to submit the collection particulars regarding the cases related to M/s Cherian Varky Construction Company Pvt. Ltd, M/s V K Johny, M/s V C Constructions, M/s Cemex Ptojects Pvt. Ltd, GKR Associates, and M/s Zion Glass Land in which additional demands had already been created.**

**(17) The Committee directs the Department to submit a report on the present status of cases filed in various forums related to Cochin Engineering & Consultancy Pvt. Ltd, M/s Nutech Builders, M/s AAG India Pvt Ltd, M/s Fujitech India Pvt Ltd. and M/s Celestial Infrastructure Pvt. Ltd. to the Committee within a month.**

**(18) The Committee directs the Department to submit a copy of the relevant court order related to Advance Engineering and Infrastructure Pvt. Ltd.**

**(19) The Committee directs the Department to submit the documents to prove the exact sub contract receipts received during other years were subjected to tax on cases related to M/s GR TECH Services, M/s. Green worth Infrastructures Pvt. Ltd and M/s Nirman Engineers.**

**(20) The Committee directs the Department to submit the supporting documents to prove that the dealer had paid the amount in the financial year 2012-13 related to K J Sebastian, 32072078125, 2013-14.**

**(21) The Committee directs the Department to submit the reconciliation**

statement and other supporting documents to substantiate the reply in case of the objection related to M/s Automation Asia Associates Pvt. Ltd.

(22) Regarding the case related to K T Mathew & Company, the Committee urges the Department to submit a revised report.

(23) The Committee directs to submit the copy of Form 20 F in connection with the case related to M/s Athira Industries.

(24) The Committee directs to submit the supporting documents to substantiate the reply, in connection with the objection related to Nakshathra Builders.

(25) Regarding M/s Cordial Foundation Pvt. Ltd, the Committee directs to submit a revised report regarding the audit observation along with a copy of the appellate order.

(26) The Committee directs to submit a revised reply along with supporting documents in connection with the objection related to M/s City Aluminium Fabricator.

#### **2.5.3.2 Non-levy of tax on the cost of materials supplied by the awarders**

Rule 9(2)(A) of the KVAT Rules, 2005, stipulates that, where, in a works contract, the awarder supplies a portion of the goods involved in the execution of works contract and deducts the value of the material from the payment made to the contractor, the turnover of the goods so supplied shall form part of the total turnover of the awarder as well as the contractor. Out of ten cases checked, in three cases, the awarder had transferred the goods to the sub-contractors to incorporate into the work. But, neither the awarder (M/s Kerala State Construction Corporation Limited) nor the sub-contractors (M/s Greenworth Infrastructures Private Limited and Manuel Joseph) conceded the value of goods so supplied in their annual return. The Returns were being uploaded by the dealers themselves in KVATIS. Audit found that

no proper mechanism existed to detect such a lapse. This resulted in short levy of tax, interest and penalty amounting to ₹ 96.53 lakh as detailed in Table -2.12.

**Table -2.12**

(₹ in lakh)

Sl. No.	Name of the office/circle	Name of the assessee/TIN	Year	Turnover	Short levy			
					Tax	Interest	Penalty	Total
1	CTO(WC), Emakulam	M/s Kerala State Construction Corporation Ltd./ 32072082322	2012-13	276.22	13.81	5.25	27.62	46.68
2	CTO(WC), Emakulam	M/s Greenworth Infrastructures Pvt Ltd./ 32072097341	2012-13	276.22	13.81	5.25	27.62	46.68
3	CTO (WC), Kannur	Manuel Joseph/ 32592641212	2012-13	14.77	0.74	0.27	1.48	2.49
			2013-14	4.25	0.21	0.05	0.42	0.68
		<b>Total</b>		<b>571.46</b>	<b>28.57</b>	<b>10.82</b>	<b>57.14</b>	<b>96.53</b>

The Additional Chief Secretary (Taxes) stated that the cases pointed out would be examined to see whether there was any short levy of tax on account of supply of materials by awarders to the sub contractors.

**[Audit paragraph 2.5.3.2 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2016 (Revenue Sector)]**

**[Notes received from the Government on the above audit paragraphs are included as Appendix-II]**

**Excerpts from the discussion of the Committee with officials concerned**

(27) The Under Secretary, Legislature Secretariat brought to the attention of the Committee that out of ten cases reviewed, three instances involved the awarder transferring goods to subcontractors for incorporation into the work. However, neither the awarder nor the subcontractors reported the value of the supplied goods in their annual returns. The dealers entered their returns in the KVATIS system. The audit revealed the absence of a proper mechanism to detect such discrepancies, which resulted in a shortfall of tax, interest, and penalties totalling ₹96.53 lakh.

(28) The Committee enquired about the audit observation regarding



M/s. Kerala State Construction Corporation Limited, the Additional Commissioner, GST Department informed that the audit observation was sustainable and an additional demand had created for ₹2.51 crore. He added that the WP(C) filed in connection with that was pending before the Hon'ble High Court. In connection with the case related to M/s Green Worth Infrastructures Pvt. Ltd., the Additional Commissioner, GST Department informed that the audit objection was not sustainable and a detailed report had been sought and would be submitted before the Committee at the earliest. The Committee directed the Department to submit the report urgently. Regarding the case related to Manuel Joseph, for the years 2012-13 and 2013-14, the Additional Commissioner, GST Department stated that the assessing authority had determined that the cost of goods supplied by the Public Works Department was included in the gross contract amount, and a certificate had been issued by the Department to this effect. The Committee instructed that supporting documents be provided to substantiate the replies in the three cases mentioned above.

### **Conclusions/ Recommendations**

**(29) The Committee directs the Department to submit the present status of the case filed in the Hon'ble High Court of Kerala in connection with the case related to M/s Kerala State Construction Corporation Ltd.**

**(30) The Committee directs to submit a revised reply regarding the audit observation related to M/s Greenworth Infrastructure Pvt. Ltd.**

**(31) The Committee urges to submit the supporting documents to substantiate the reply in case related to Manual Joseph, 2012-13 and 2013-14.**

#### **2.5.3.3 Incorrect compounding where transfer was in the form of goods**

Under the KVAT Act, 2003 in the case of transfer of goods involved

in the execution of works contract, where transfer is in the form of goods, the liability for tax shall be at the rate specified for such goods. Works contract involving fabrication, supply and installation of UPVC<sup>4</sup>/aluminium doors and windows would come under the category of transfer of materials in the form of goods, which would attract levy of tax at the schedule rate of such goods transferred. The position has been reiterated<sup>5</sup> by the Commissioner of Commercial Taxes stating that such cases would not be eligible for compounding.

Audit noticed that in CTO (WC), Ernakulam, three out of fifteen dealers had opted to pay tax at the compounded rates on their contract receipts for the fabrication/supply and installation of UPVC/aluminium doors and windows which resulted in incorrect compounding and application of incorrect rate of tax. This resulted in short levy of tax, interest and penalty amounting to ₹ 4.04 crore as detailed in Table -2.13.

**Table -2.13**

(₹ in lakh)

Sl. No	Name of the assessee/ TIN	Year	Turnover	Short levy of Tax	Interest	Penalty	Total
1	George Projects Pvt. Ltd./ 32072027016	2012-13	46.12	4.84	1.89	9.69	16.42
		2013-14	158.34	18.21	4.92	36.42	59.55
		2014-15	277.74	30.31	4.55	60.61	95.47
2	M/s Sherin Hi-Fabs/ 32072033755	2012-13	90.53	9.51	3.71	19.01	32.23
3	M/s Sherin Hi-Fabs Contracts (I) Pvt. Ltd./ 32072063859	2012-13	563.65	59.18	23.08	118.37	200.63
<b>Total</b>				<b>122.05</b>	<b>38.15</b>	<b>244.10</b>	<b>404.30</b>

The Additional Chief Secretary (Taxes) assured that the circular issued by the Commissioner of Commercial Taxes would be re-examined.

**[Audit paragraph 2.5.3.3 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2016]**

4 Unplasticised Poly Vinyl Chloride.

5 Order No. C3/23011/13/CT dt: 27 November 2013.

**(Revenue Sector)]**

**[Notes received from the Government on the above audit paragraphs are included as Appendix-II]**

**Excerpts from the discussion of the Committee with officials concerned**

(32) The Under Secretary, Legislature Secretariat brought to the attention of the Committee that in the CTO (WC), Ernakulam, an examination of fifteen cases revealed that three dealers had chosen to pay tax at the compounded rates on their contract receipts pertaining to the fabrication, supply, and installation of UPVC/aluminium doors and windows, which resulted in incorrect compounding and application of incorrect rate of tax leading to a short levy of tax, interest and penalty amounting to ₹40.30 lakh.

(33) The Committee enquired the audit observation regarding George Projects Pvt, Ltd., 2012-13 to 2014-15, the Additional Commissioner, GST Department submitted that the audit observation was sustainable and the assessment had been completed. The writ petitions filed concerning the years 2012-13 and 2014-15 were currently pending before the Hon'ble High Court, and the dealer had opted for the amnesty scheme for the year 2013-14. The Committee instructed the Department to provide the current status of the cases being heard in the Hon'ble High Court, along with the collection particulars for the year 2013-14. During the discussion of the case related to M/s Sherin Hi Fabs, 2012-13, the Additional Commissioner, GST Department submitted that the dealer had opted the Amnesty Scheme and the collection particulars would be provided. While regarding the case related to M/s Sherin Hi Fabs Contracts(I) Pvt. Ltd., he stated that there was a discrepancy between the assessment values provided by the Accountant General and the assessing authority. The amount demanded by the Accountant General was ₹9.5 crore, whereas the assessing authority issued a demand for ₹2.14 crore. He further mentioned that clarification had been sought from the assessing authority regarding that discrepancy. The

Committee directed the Department to submit a detailed report regarding the case and the Additional Commissioner, GST Department agreed to submit the report.

### **Conclusions/ Recommendations**

**(34) The Committee directs to submit the current status of the WP(C) filed in the High Court in case related to George Projects Pvt. Ltd, 2012-13&2014-15.**

**(35) The Committee directs to submit the Collection particulars regarding M/s Sherin Hi-Fabs, 32072033755, 2012-13.**

**(36) The Committee directs to submit the present status of the WP(C) filed in High Court regarding M/s Sherin Hi-Fabs Contracts(I) Pvt Ltd, 3207063859, 2012-13.**

#### **2.5.3.4 Incorrect grant of exemption of sub contract turnover**

Under Section 8(a) of the KVAT Act, 2003 read with Rule 11(4) of the KVAT Rules, 2005 made thereunder, an awarder/principal contractor claiming exemption on sub contract payments shall obtain certificate in Form No 20 H from sub contractor. The said certificate should contain particulars such as gross amount of contract and a certificate from the assessing authority explicitly stating the liability discharged by the sub contractor during the year.

Audit cross checked the sub contract payments made by the awarders/principal contractors in four assessing circles<sup>6</sup> and noticed that in eight cases out of ten as listed in **Appendix III(2)**, the claim of exemption was not supported by certificate in Form No 20 H/not in consonance with the amount of liability discharged, as recorded in the certificates by the assessing authority/ certificates not related to the relevant year. In two cases, the assessee claimed excess exemption towards sub contract payments which did not tally with the annual accounts. The Act does not envisage the extent of

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<sup>6</sup> CTO (WC), Ernakulam, Kannur, Mattancherry and Thiruvananthapuram.

detailed scrutiny of returns filed by the assesseees. Further, there is no provision in the certificate in Form No. 20 H regarding the extent of liability discharged by the sub contractors during the year which has paved way for irregular exemption being claimed by the awarders. This resulted in short levy of tax, interest and penalty of ₹ 58.16 crore as detailed in Table –2.14.

**Table – 2.14**

(₹ in lakh)

Name of the Office	Number of cases	Short levy			
		Tax	Interest	Penalty	Total
CTO (WC), Ernakulam	7	1,751.52	479.32	3,503.05	5,733.89
CTO (WC), Kannur	1	7.10	2.62	14.20	23.92
CTO (WC), Mattancherry	1	13.76	3.44	27.51	44.71
CTO (WC), Thiruvananthapuram	1	4.24	1.06	8.48	13.78
<b>Total</b>	<b>10</b>	<b>1,776.62</b>	<b>486.44</b>	<b>3,553.24</b>	<b>5,816.30</b>

The beneficiaries with highest tax liability are detailed in Table – 2.15.

**Table –2.15**

(₹ in lakh)

Sl. No.	Name of the Office	Name of the assessee/TIN	Year(s)	Turnover incorrectly exempted	Short levy of tax, interest and penalty
1	CTO (WC), Ernakulam	M/s. Kerala State Construction Corporation Ltd./32072082322	2012-13 to 2013-14	34,413.64	4,541.35
2	CTO (WC), Ernakulam	M/s. Skyline Builders/ 32072047255	2012-13 to 2014-15	3,262.65	1,003.80
3	CTO (WC), Ernakulam	M/s. Asset Homes Pvt. Ltd./32072010445	2014-15	526.17	49.41
4	CTO (WC), Mattancherry	M/s. E.K.K. & Co./ 32151046307	2013-14	343.93	44.71
5	CTO (WC), Ernakulam	M/s. Mabel Engineers Pvt. Ltd. (V)/ 32072014056.	2014-15	92.70	42.20

On this being pointed out (August 2016) the Additional Chief Secretary (Taxes) stated that action would be initiated to examine the cases pointed out. He also stated that proposals for modifications in Form 20 H certificate would be made in current years Finance Bill. Further report awaited.

**[Audit paragraph 2.5.3.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2016 (Revenue Sector)]**

**[Notes received from the Government on the above audit paragraphs are included as Appendix-II]**

**Excerpts from the discussion of the Committee with officials concerned**

(37) The Under secretary, Legislature Secretariat brought to the attention of the Committee that an audit conducted on the subcontract payments made by the awarders/principal contractors across four assessing circles revealed that, in eight out of the ten cases examined, the claims for exemption were not accompanied by the necessary certification in Form No. 20H. In two instances, the assessee had sought tax exemption. During the discussion regarding the audit findings associated with Asset Homes, the Additional Commissioner of the GST Department informed the Committee that although it was previously indicated that revenue recovery measures would be initiated, the revised response stated that the dealer had opted for the Amnesty Scheme. The Committee directed the Department to provide details regarding the collection particulars. With respect to KSCC, the Additional Commissioner reported that the assessment for the year 2012-13 had been concluded, while the writ petition (WP(C)) filed by the dealer was still pending before the High Court. The assessment for the fiscal year 2013-14 had also been completed, and the revenue recovery measures initiated were progressing. Concerning Tikanar Homes, although the assessment had been finalized, further proceedings had been stayed by the Government. He further stated that assessment had been modified in connection with Mabel Engineering Pvt. Ltd. The Committee directed to submit the collection particulars in that case. Regarding the case related to Tech steel, the Additional Commissioner, GST Department informed that the assessment had been remanded in that case and a report would be submitted after

examining the current status. While discussing the case related to Nirmithi Kendra, the Additional Commissioner, GST Department indicated that the objection raised by the Accountant General was not sustainable, as the firm did not engage in awarding subcontracts. To a query of the Committee, he clarified that Nirmithi Kendra was executing only Government works and hence there was no possibility of awarding the work to subcontractors. Although the firm's actual turnover amounted to ₹2.36 crore, it was erroneously reported as ₹19.92 crore due to a clerical error. He further stated that, as tax deducted at source (TDS) was collected based on the actual amount, there was no loss in revenue. He assured the Committee that both the Chalan and Form 20 F would be provided. The Committee urged to submit the supporting documents such as Chalan and Form 20 F. Regarding the case related to M/s EKK & Co, the Additional Commissioner, GST Department informed that reconciliation statement had been received in that case and the Committee directed the Department to submit the documents regarding that.

(38) The Committee accepted the report submitted by the Department in cases related to Skyline Foundation, G R Engineering Pvt. Ltd and Skyline Builders.

### **Conclusions/ Recommendations**

(39) Regarding the objection related to incorrect grant of exemption of sub contract turnover, the Committee directs the Department to submit the collection particulars in respect of Asset Homes, 2014-15 and Mabel Engineers Pvt. Ltd., 2014-15.

(40) The Committee urges to submit the present status of W P(C) filed in connection with M/s Kerala State Construction Corporation Ltd, 2012-13 and the current status of revenue recovery measures initiated for the year 2013-14.

(41) The Committee directs to submit the present status of the action taken by the Department on the objection related to Tikanar Homes.

(42) The Committee directs to submit the present status of action taken in respect of M/s Tech Steel.

(43) The Committee directs to submit the supporting documents such as Challan and Form 20 F in the case related to Nirmithi Kendra.

(44) Regarding M/S EKK & Co, 2013-14, the Committee directs to submit the supporting documents to substantiate the reply.

#### **2.5.3.5 Non-deduction/short deduction of TDS by the awarder/ principal contractor**

Under Section 10 of the KVAT Act, 2003 an awarder shall deduct TDS from the sub contract payments to the sub-contractor. The rate of such deduction/non deduction should be mentioned in the liability certificate in Form 1EE issued by the assessing authority of the sub contractor. If no such certificate is furnished by the sub contractor to the principal contractor/awarder, the TDS should be effected at the rate of 8 per cent of the sub contract payments in the case of registered contractor, and at 10 per cent in the case of unregistered contractors. The awarder also had to file return in Form No 10 C, mentioning the details of work sub contracted, to his assessing authority under Rule 32. Further, as per Rule 42(4), the awarder has to issue certificate in Form No 20 F to sub contractor detailing the work awarded, amount paid and TDS effected, if any, and the sub contractor in turn issues certificate in Form 20 G to awarder confirming the work accepted/executed and amount received from the awarder.

In three assessment circles<sup>7</sup>, Audit noticed that awarders had not effected TDS on sub contract payments at stipulated rate. The short levy of tax, interest and penalty in six cases would come to ₹ 6.36 crore as detailed in Table -2.16.

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<sup>7</sup> CTO (WC), Ernakulam, Mattancherry and Thiruvananthapuram.



Table -2.16

(₹ in lakh)

Name of the assessee/ TIN	Year	Assessing Circle	Short/Non-deduction of tax	Interest	Penalty	Total
M/s. Asset Homes Private Limited/ 32072010445	2012-13	CTO (WC) Ernakulam	0.89	0.34	1.78	3.01
M/s. HLL Life Care Limited/ 32072097341	2012-13	CTO (WC) Thiruvananthapuram	46.03	17.49	92.06	155.58
M/s. TRDCL 32592641212	2012-13	CTO (WC) Thiruvananthapuram	11.85	4.50	23.70	40.05
M/s. IL&FS Township and Urban Assets 32592641212	2014-15	CTO (WC) Thiruvananthapuram	0.59	0.08	1.18	1.85
M/s. Heera Construction Co.Ltd./ 32011329532	2013-14	CTO (WC) Thiruvananthapuram	59.57	15.49	119.14	194.20
EKK&Co/ 32151046307	2014-15	CTO (WC) Mattancherry	77.09	10.02	154.18	241.29
<b>Total</b>			<b>196.02</b>	<b>47.92</b>	<b>392.04</b>	<b>635.98</b>

M/s Heera Construction Company Ltd, an assessee borne on the rolls of the CTO (WC), Thiruvananthapuram had not effected TDS on sub contract payments to 108 unregistered dealers.

The assessing authorities could have detected the omission, had the assessing authorities scrutinised the statement of payments made to sub-contractors.

The Additional Chief Secretary (Taxes) stated that the cases pointed out would be examined to see whether there was non-deduction/short deduction of TDS.

**[Audit paragraph 2.5.3.5 contained in the Report of the Comptroller**

**and Auditor General of India for the year ended 31<sup>st</sup> March, 2016  
(Revenue Sector)]**

**[Notes received from the Government on the above audit paragraph are included as Appendix-II]**

**Excerpts from the discussion of the committee with officials concerned**

(45) The Under Secretary, Legislature Secretariat provided a concise overview of the audit findings. She informed that according to the audit observations, a total short levy amounting to ₹635.98 lakh had been identified concerning tax, interest, and penalties in six instances where the awardees had failed to apply the stipulated Tax Deducted at source on subcontract payments. Regarding the case related to EKK & Co, The Additional Commissioner, GST Department submitted that the assessment had been completed and the appeal filed by the dealer was allowed in favour of the dealer. Consequently, a second appeal has been filed by the State before the Tribunal.

(46) In connection with the case related to M/s TRDCL, the Committee directed to submit the copy of Form 20 H. Regarding the case related to M/s Heera Constructions, the Additional Commissioner, GST Department informed that revenue recovery is being recommended, and a decision from the National Company Law Tribunal is currently awaited in that matter.

(47) Regarding the case related to Asset Homes, the Additional Commissioner, GST Department submitted that the objection of the Accountant General was not sustainable as the firm had remitted the amount. The Committee accepted the reply. The Committee also accepted the reply furnished by the Department regarding the audit objection related to M/s. HLL Life Care Limited, M/s IL&FS Township and Urban Assets.

#### **Conclusions/ Recommendations**

(48) **The Committee directs to submit the present status of the action**

taken in respect of M/S EKK & Co. related to the non-deduction /short deduction of TDS on sub contract payments at stipulated rate.

(49) Regarding M/s TRDCL, the Committee directs to submit the copy of Form 20 F.

(50) The Committee directs to submit the present status of the revenue recovery proceedings related to M/s Heera Construction Co Ltd.

#### 2.5.3.6 Short remittance of tax

Under Section 31 of the KVAT Act, 2003 a dealer is liable to pay tax on the taxable turnover. In CTO (WC), Mattancherry, Audit noticed that two work contractors short remitted the tax due, interest and penalty amounting to ₹ 50.34 lakh as detailed in Table – 2.17.

**Table – 2.17**

(₹ in lakh)

Name of the assessee/TIN	Year	Assessment Circle	Tax due as per certified accounts	Tax paid as per remittance details	Short remittance			
					Tax	Interest	Penalty	Total
EKK&Co/ 32151046307	2014-15	CTO. (WC) Mattancherry	740.92	727.65	13.27	1.73	26.54	41.54
Nechupadam Constructions Pvt. Ltd./ 32151007405	2014-15	CTO. (WC) Mattancherry	24.45	21.64	2.81	0.37	5.62	8.80
<b>Total</b>					<b>16.08</b>	<b>2.10</b>	<b>32.16</b>	<b>50.34</b>

On this being pointed out (August 2016) the Additional Chief Secretary (Taxes) stated that action would be initiated to examine the cases pointed out.

#### 2.5.4 Conclusion

Audit observed that the assessing officers were not ensuring that the works contract receipts for which exemption was availed by the principal contractor being sub contracted work was assessed at the hands of sub contractors and that the statutory forms prescribed as per provisions of Act/Rules were neither insisted upon by the assessing officers nor used for the intended purpose.

The Department must ensure filing and subsequent scrutiny of valid statutory forms envisaged in the Act/Rules by the awarder and the sub-contractor.

**[Audit paragraphs 2.5.3.6 and 2.5.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2016 (Revenue Sector)]**

**[Notes received from the Government on the above audit paragraph are included as Appendix-II]**

**Excerpts from the discussion of the committee with officials concerned**

(51) While considering the case related to EKK & Co, the Additional Commissioner, GST Department indicated that a second appeal had been filed by the Department and was currently pending. The Committee directed that a status report regarding the case be submitted. In relation to Nechupadam Constructions Pvt Ltd., the Additional Commissioner, GST Department stated that the case was not sustainable. The Committee accepted the reply.

### **Conclusions/ Recommendations**

(52) **The Committee directs to submit the present status of the case filed in relation with M/s EKK & CO.**

### **2.6 Short levy of tax in assessments of metal crushing units**

A manufacturer of crushed metal can opt for compounding under Section 8(b) of the KVAT Act and compounded tax is to be determined based on the jaw-size of the metal crushing machine used for the manufacture of crushed metal, at rates prescribed by the Government from time to time. In the case of compounding, if option is accepted, tax due would be calculated by the assessing authority at the rates given **Appendix III(3)**, which should be remitted quarterly by the assessee.

The CTD issued<sup>8</sup> detailed instructions directing the assessing officers

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<sup>8</sup> Circular No. 11/2007 dt: 28 February 2007.

to gather information from local bodies, Kerala State Electricity Board Ltd. (KSEBL), Kerala State Pollution Control Board (KSPCB) and Mining and Geology Department and utilise the same judiciously for finalising the assessments. As per KVAT Rules 2005, the assessing officers shall grant permission for compounding, if he is satisfied that the information in the application containing the details of metal crushers installed by the assessee is in order.

Audit verified the assessment records of metal crushing units for the period from 2009-10 to 2013-14 in 48 assessment circles<sup>9</sup> spread over in 11 districts<sup>10</sup> to ascertain whether the assessing officers had gathered information from other Departments/Statutory bodies or any other information available in the records submitted by the assessee and utilised the same for granting permission for compounding/finalising assessments as directed in departmental circular which revealed the following:

### **2.6.1 Under-reporting of number and/or jaw-size of metal crushing machines**

In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/ KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the

9 AIT&CTO:- Spl Circle Thiruvananthapuram, CTO-Nedumangad, Neyyattinkara & Attingal; Spl Circle Kollam, CTO-Kottarakkara, Kundara, Chathannur, Anchal; IAC Pathanamthitta, CTO-Pathanamthitta, Thiruvalla, Adoor; IAC Kattappana, I Circle Thodupuzha, II Circle Thodupuzha, Spl Circle Thodupuzha, CTO Adimaly, Nedumkandam; Spl Circle Perumbavoor, CTO I & II Circle Perumbavoor, CTO- Moovattupuzha, Kothamangalam, Spl Circle Kottayam, CTO Aluva, Angamaly; Spl Circle Thrissur, CTO Wadakkancherry, Chalakkudy, CTO Irinjalakkuda, I Circle Thrissur, III Circle Thrissur; Spl Circle Palakkad, CTO- Ottappalam, Pattambi, I Circle Palakkad; Spl Circle Malappuram, CTOs Manjeri, Perinthalmanna, AIT & CTO Manjeri at Kottakkal, CTO Koothuparamba, AIT&CTO Vythiri, CTO Karunagapally, AIT&CTO Ranni, CTO II Circle Kalamaserry, CTO Thirurangadi, CTO/AIT Thrissur.

10 AIT & CTO:-Thiruvananthapuram, Kollam, Pathanamthitta, Idukki, Ernakulam, Thrissur, Palakkad, Malappuram, Kottayam, Kannur and Waynad.

assessment. This resulted in short levy of the tax, interest and penalty of ₹68.78 crore as shown in **Appendix III(4)**. The Tax district –wise position is detailed in Table -2.18.

**Table -2.18**

(₹ in crore)

Tax District	Number of cases	Total short levy
D C Malappuram	12	4.61
D C Pathanamthitta	12	6.18
D C Thrissur	18	9.76
D C Wayanad	1	0.26
D C Ernakulam	1	0.15
D C Kollam	15	8.94
D C Palakkad	7	4.52
D C Mallancherry	44	17.18
D C Idukki	11	9.75
D C Kannur	1	0.29
D C Thiruvananthapuram	7	6.14
D C Kottayam	2	1.00
	<b>131</b>	<b>68.78</b>

Audit conducted a joint physical inspection of 26 out of 131 cases mentioned above along with the Intelligence squads of CTD and found that these 26 assesseees filed incorrect returns relating to the period from 2009-10 to 2013-14.

The benefit enjoyed by the assesseees ranged from ₹ 4.57 lakh (M/s Ricko Rocks and Granites, M/s Stonage Metal Crusher) to ₹ 432.89 lakh (M/s Darshan Granites).

Failure of assessing authorities to verify the correctness of application for compounding filed by the assessee with secondary evidences available with other Government Departments/Agencies, had paved way for the under reporting of size and/or number of metal crushing machines, resulting to evasion of tax.

On this being pointed out (June 2016) Government stated (October

2016 and December 2016) that assessment have been revised in 24 cases and additional demand of ₹ 6.62 crore had been created, out of which ₹ 45.65 lakh has been collected in six cases. Further reply has not been received.

**[Audit paragraph 2.6 and 2.6.1 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2016 (Revenue Sector)]**

**[Notes received from the Government on the above audit paragraph are included as Appendix-II]**

**Excerpts from the discussion of the committee with officials concerned**

(53) While considering the audit paragraph 2.6.1, the Additional Commissioner, GST Department explained that the number of machines installed at the outset of a crushing unit would be fewer than what was specified in the original plan. The permissions and consents granted by the Pollution Control Board and the Mining and Geology Departments also mentioned the numbers outlined in the plan, which was the basis for the audit objection. However, the verification conducted by the assessing authority revealed that the majority of objections raised during the audit were not sustainable. He added that in a case from the 2009-10 fiscal year, both the Accountant General's objection and a joint inspection conducted in 2016-17 concluded that most cases lacked sustainability due to the absence of real-time data.

(54) As the requisite amount had been remitted by the dealers, the Committee decided to drop the audit objection related to Karipur Granite Industries, Gulfar Granites, Erand Cement & Metals, Wilson Stone Crusher, Mallelil Industries Pvt Ltd., Puthiyaparambil Industries, Jams Granites (P) Ltd., Akkavilla Sajeenan Aggregates, Sha Metal Crusher, Kohinoor Granites Industries, 32090562156, CTO I circle, Palakkad, Mabrook Granites, Malabar Blue Metals, Vadakkal Metals, Star Granites, New National Granites, Quality Stone Products, United Granites, Ozone Granites, Thattayath Metal Crusher, Hi Range Metal Products, Five Star Stone Crusher

and Hollow Bricks, Aramam Rocks and Kuthiravelil Rubble Industries, Marangoli, Kottayam. The Committee also accepted the reply submitted by the Department in connection with Banyas Granite Industries and Cresnet Granites Industries and Chengot Stone Crusher, Lakshmi Stone Industries, Kuzhuvamannil Industries, Vilamana Industries, Marbles and Minerals, Sabari Granites, St. May's Granites, 2009-10 to 2013-14.

(55) During the discussion, the Additional Commissioner, GST Department informed that Marva Metals had opted the Amnesty Scheme for closing the arrears for two financial years 2009-10 & 2010-11 and the revenue recovery measures were progressing in connection with 2011-12, 2012-13 and 2013-14 financial years. The Committee directed to furnish the present status of revenue recovery measures initiated in connection with Marva Metals, 2011-12, 2012-13 and 2013-14, Esskay Industries, A S Industries, Nabilson Granites, Raja Granites, Badhusa Metals, Navodaya Granites, Thomson Granites and M.S Building Products. The Committee insisted the Department to submit the collection particulars in connection with Marva Metals for the years 2009-10 and 2010-11.

(56) The Committee directed to submit the chalan details regarding the cases related to Kavumkal Granites Pvt. Ltd., Ricko Rocks and Granites, Stonage Metal Crusher, Plakkatu Granites Industries, Konni Kochin Granites, Ravindra Rock Crushing Plant, Central Granites, Southern Industries, Panthalookkaran Granites, Rajumon Granites, Thoomkuzhy Granites, CBM Enterprises, Green Rock Crushers & Mines (P) Ltd, Charuvila Metal Crusher, Monarch Cement Works, Lal Metal Crusher, Aaramam Industries, Sarathy metal Crusher, Korien Granite Industries, Periyar Granites Pvt Ltd, Aradhana Industries, Union Granites, Modern Cemeto Bricks, Parathuvayalil Granites, Star Granites, Afsiya Granites, Ansal Granite Products, Venad Granites, Madaparambil Granites, St. Martin Granites, CMJ Granites, Five Star Stone Crusher and Hollow Bricks and



Mount Valley Granites.

(57) Regarding the case related to Vikas Granites, the Additional Commissioner, GST Department informed that even though some amount was recovered through revenue recovery proceedings, a significant amount remains outstanding. The Committee directed to submit a detailed report regarding the collection particulars.

(58) While considering the audit observation regarding Kohinoor Granite Industries, 321000000452998, CTO, Manjeri, the Additional Commissioner, GST Department stated that an appeal in this case had been resolved in favour of the dealer. The Committee enquired whether the Department had considered the scope of the second appeal. The Additional Commissioner, GST Department informed that the audit objection was deemed unsustainable in this instance, as the compounding payment was based on the jaw size of the metal crushing machine and the actual size verified on site by the assessing authority. It was noted that the report from the Pollution Control Board did not specify the jaw size. The Hon'ble High Court indicated that there was no provision for a second appeal against the AC appeal in such cases. The Committee sought clarification on whether the Department had obtained a legal opinion regarding the scope of the second appeal. The Additional Commissioner confirmed that legal counsel was sought solely for the purpose of approaching the High Court, and the second appeal was filed by the next higher authority based on the assessing authority's recommendations. The Committee further directed the Department to determine if any legal opinion had been sought regarding the scope of the second appeal in relation to Kohinoor Granite Industries, Feroz Granites Industries, and Al-Madeena Metals and Cement Industries.

(59) Regarding the case related to Prime Metal Industries, the Additional Commissioner, GST Department submitted that the assessing authority had examined the said case but the assessment order was set aside

by the Hon'ble High Court. When the Committee inquired whether the dealer had made the payment, the Additional Commissioner confirmed that the dealer had indeed remitted the amount under the compounding scheme. Subsequently, the assessment order was amended after examining the demand from 2009-10 to 2013-14; however, that order was also set aside by the Hon'ble High Court. The Committee accepted the reply provided by the Department.

(60) While considering the case related to Edayan Granites, the Additional Commissioner, GST Department submitted that on verification it was found that the audit observation was not sustainable as the assessing authority had granted permission for the dealer to opt for the compounding scheme after considering all relevant factors. Therefore, no discrepancies in the amounts were found. Regarding the audit observation related to ACK Sons Rock Processing Unit, the Additional Commissioner, GST Department informed that the dealer had opted the Amnesty Scheme. When the Committee enquired about the present status of the said case, he informed that the amount was not remitted. Then the Committee directed the Department to submit the present position of the said case. Regarding PJP Granites, the Additional Commissioner, GST Department informed that on verification it was found that the case was not sustainable. When the Committee enquired about the appellate order, he submitted that the appeal was allowed. Then the Committee directed to submit the copy of the Appellate order.

(61) The Additional Commissioner, GST Department informed that the second appeal filed by the Government in connection with K. J Vasudevan Nair Granites, Jayam Sands & Gravel (P) Ltd., were pending disposal. The Committee directed to furnish the present status of the appeal filed in that case. Regarding the case related to Thomson Granites, the Additional Commissioner, GST Department informed that although the

machinery was procured, production commenced at a later date. During the operational period, the turnover was reported to be double, and the assessing authority has verified all related details. Consequently, the audit objection was deemed unsustainable. The Senior Audit Officer had requested to submit a comprehensive report regarding that matter, to which the Additional Commissioner agreed to provide. In connection with the cases related to Blue Mountain Granites, the Additional Commissioner, GST Department informed that the appeal filed by the Government in connection with that matter was pending. The Committee directed to submit the present status of the case. Regarding the cases related to Three Star Granites and Shakti Granites, the Committee directed to submit the copy of the Appellate order.

(62) In connection with the cases related to Satyam Granite Industries, the Additional Commissioner, GST Department stated that a detailed reply had been solicited from the officers, and a report would be provided upon receipt of that reply. The Committee directed to submit the copy of the Assessment order. Regarding the cases related to Ananthapuri Metals, the Committee directed to submit the copy of the report of the intelligence officer. Regarding New Excel Granites, the Additional Commissioner, GST Department submitted that the audit observation was not sustainable. Despite conducting spot inquiries, the machines referred in the audit paragraph could not be located. The Committee directed to submit the copy of the spot enquiry report. Regarding the case related to Poovottu Industries, the Additional Commissioner, GST Department assured to submit the spot enquiry report.

(63) While considering the case related to Kannan Granite Industries, the Additional Commissioner, GST Department submitted that the audit observation was not sustainable as the assessing authority had not found any difference in their verification and a report in that regard would be

submitted. Regarding the case related to Chithara Metal Crusher unit, the Committee directed to submit the copy of the Appellate order. While considering the case related to Darsan Granites, the Committee directed to submit the present status of the case filed in the Hon'ble High Court. Regarding Mubarak Metal Crusher Unit, the Additional Commissioner, GST Department informed that assessing authority had found that the machinery installed was in accordance with the consent granted by the Pollution Control Board, and assured that a report regarding that matter would be provided. Regarding the cases related to Valluvanad Granites, the Additional Commissioner, GST Department informed that although the dealer had opted for the Amnesty Scheme, the payment had not yet been made. Consequently, revenue recovery measures were initiated in those cases, and a report regarding those measures would be submitted. Regarding the cases related to Amal Agencies, the Additional Commissioner, GST Department informed that the assessment order has been set aside by the Hon'ble High Court and instructions had been issued to the dealer to provide the book of accounts. The Committee directed to furnish the copy of the High Court order.

(64) In Connection with the case related to Well Worth Granites, the Additional Commissioner, GST Department informed that the case in connection with 2009-10 was pending before the Hon'ble High Court. Regarding the cases related to 2010-11, 2011-12, 2012-13, the Tribunal order was allowed in favour of the dealer and legal opinion was that O T revisions were not possible in that cases. He added that the revenue recovery measures initiated in connection with 2013-14 financial year was in progress. The Committee directed to submit the present status regarding the objections pointed out from 2009-10 to 2013-14. Regarding the case related to Abson Aggregates, the Additional Commissioner, GST Department informed that the appeals were allowed in favour of the dealer and the copy of the appellate order would be provided. While discussing the case related to Matha

Industries, the Additional Commissioner, GST Department informed that the audit objections were not sustainable. When the Senior Audit Officer requested to submit the copies of the assessment order, the Additional Commissioner, GST Department agreed to submit the copies of the order. In connection with the objections regarding Parappuram Granites, the Additional Commissioner, GST Department informed that the audit objection for the year 2012-13 was sustainable and the second appeal filed by the State was pending. As no machines were purchased, the objections pointed out for the years 2010-11 and 2011-13 were not sustainable. The Committee directed to submit a detailed report regarding the present status of cases pointed out by the audit for the assessment years from 2009-10 to 2012-13 at the earliest.

(65) Regarding the cases related to MAM Industries, the Additional Commissioner, GST Department informed that the machines purchased in January 2013 were installed only in January 2014. Hence, the audit objection was not sustainable. The Committee directed to submit the supporting documents to substantiate the reply. While considering the cases related to Thottathil Granites, 2009-10 to 2012-13, the Committee directed to submit the copy of the assessment order. Regarding the cases related to Devamatha Rock Products, 2009-10 to 2012-13, the Additional Commissioner, GST Department informed that the W P(C) filed was pending. The Committee directed to submit the present status of the case. While considering the case related to KVM Granites, the Committee directed to submit the copy of the appellate order. While considering the cases related to St. Thomas Industries, 2009-10 to 2013-14, the Additional Commissioner, GST Department informed that the writ petition filed by the assessee in connection with 2009-10 was pending before the Hon'ble High Court and the remaining cases were sustainable. He assured that a report regarding the present status of the case and the revenue recovery measures initiated would be provided.

(66) While considering the case related to Al- Madeena Granites & Hollow Bricks, 2009-10 to 2013-14, the Additional Commissioner, GST Department informed that the revenue recovery measures initiated in connection with 2013-14 was progressing and the assessee had filed cases in High court, in connection with the cases related to 2009-10 to 2012-13. The Committee directed to submit a report regarding the present status of the cases filed in High Court for the assessment years from 2009-10 to 2012-13 and the revenue recovery measures initiated for the year 2013-14. Regarding the cases related to Perumbavoor Aggregates, 2009-10 to 2013-14, the Additional Commissioner, GST Department informed that the assessment order and penalty order were set aside by the appellate authority and would provide the copy of the Appellate order. Regarding M G Industries, 2010-11 to 2013-14, the Additional Commissioner, GST Department informed that the revenue recovery measures initiated for 2010-11 and 2013-14 financial years were in progress and for the years 2011-12 and 2012-13 the assessment order and penalty order were set aside by the DC(A), Ernakulam and the copy of the orders would be provided.

(67) Regarding the cases related to Vijaya Granites, 2009-10 to 2012-13, and Varkisons Engineers, 2013-14, the Additional Commissioner, GST Department informed that notice for assessment was issued and would provide a report regarding the follow up actions. Regarding the case related to B & M Granites, the Additional Commissioner, GST Department informed that the dealer had remitted the amount through amnesty scheme. The Committee accepted the reply. The Additional Commissioner, GST Department informed that the case filed in connection with Shalimar Granites, 2009-10 to 2010-11 was pending before the Hon'ble High Court. He also informed that the assessment was modified as nil demand as per the direction of DC(Appeals), and the copy of the appellate order would be provided. He further informed that notice was issued by the assessing

authority in connection with Dhanya Granites and details would be submitted on receipt of the reply. Regarding the case related to Poovelil Aggregates, 2012-13 to 2013-14, the Hon'ble High Court had quashed the assessment order due to the absence of real time data and the WP(C) filed in connection with penalty was pending. The Committee directed to submit the present status of the case. Regarding the case related to AKP Granites, 2013-14, the Additional Commissioner, GST Department informed that the objection raised by the audit was sustainable. The assessment had been completed by creating an additional demand of ₹2,00,000. He assured that the collection details would be submitted.

(68) While Considering the case related to Punnekottayil Granites, 2009-10 to 2013-14, and Periyar Associates, 2012-13 to 2013-14, the Committee directed to submit the copy of the appellate order. The Additional Commissioner, GST Department agreed to submit the report. Regarding the cases related to PPM Granites, 2009-10 to 2013-14, the Additional Commissioner, GST Department informed that the objection raised in that case was not sustainable. The Senior Audit Officer requested to submit the copy of the supporting documents. The Additional Commissioner, GST Department agreed to submit the documents. While considering the case related to Everone Properties India Pvt. Ltd., 2010-11 & 2013-14, the Additional Commissioner, GST Department informed that the assessment was modified and would provide the details. The Committee directed to submit the copies of the supporting documents. Regarding the audit objection related to Parakkal Rock Products, 2010-11 to 2013-14, the Additional Commissioner, GST Department informed that the audit objection was not sustainable. The Committee directed to submit the copies of the supporting documents. Regarding Megha Granites, 2009-10 to 2013-14, the Committee directed to submit the copies of the supporting documents.

(69) In connection with the cases related to Kunnumpurathu Granites, 2012-13 and 2013-14, the Additional Commissioner, GST Department informed that the case was partially sustainable. The Committee directed to submit a present status report regarding the cases related to Kunnumpurathu Granites and United Granites & Metals. The witness agreed to submit the report. The Committee also directed to submit the copy of the High Court order in connection with the case related to Charles Metal Industry. Regarding the case related to MKN Bricks & Blue Metal (P) Ltd., 2013-14, the Senior Audit Officer pointed out that in the reply the Government stated that the assessee had under reported the capacity of machines resulting in short levy of tax and interest. Since there was no clarity in the reply, he requested to submit a copy of the supporting documents. The Additional Commissioner, GST Department agreed to submit the report. While considering the audit observation related to Travancore Blue Metals Industries, 2013-14, the Committee directed to submit the copy of the Appellate order. Regarding the case related to Blue Star Industries, 2009-10 and 2010-11, the Additional Commissioner, GST Department informed that the audit observation was not sustainable. The CTO and Intelligence Officer had conducted an inspection regarding the said matter. The Committee directed to furnish the supporting documents to substantiate the reply. While considering the case related to Kannanthanam & Co., 2009-10 to 2010-11, the Additional Commissioner, GST Department informed that the writ petition filed in that case was pending before the Hon'ble High Court. The Committee directed to submit the present status of the case within two months.

### **Conclusions/ Recommendations**

(70) The Committee directs to submit the present status of the revenue recovery proceedings initiated in connection with Marva Metals, 2011-12, 2012-13 and 2013-14 and collection particulars for the years 2009-10



and 2010-11.

(71) The Committee directs to submit the present status of the revenue recovery proceedings initiated in connection with Esskay Industries, A.S. Industries, Nabilson Granites, Raja Granitess, Badhusha Metals, Navodaya Granites, Thomson Granites, M S Building Products, Valluvanad Granites, St. Thomas Industries, 2010-11 to 2013-14,

(72) The Committee directs to submit the present status of the revenue recovery procedures initiated in connection with M G Industries, 2010-11 and 2013-14 and the copy of the order of DC (A), Ernakulam for the years 2011-12 and 2012-13.

(73) The Committee urges the Department to submit the chalan details in respect of Kavumkal Granites (Pvt) Ltd, Ricko Rocks and Granites, Stonage Metal Crusher, Plakkatu Granites Industries, Konni Kochin Granites, Ravindra Rock Crushing Plant, Central Granites, Southern Industries, Panthalookaran Granites, Rajumon Granites, Thoomkuzhy Granites, CBM Enterprises, Green Rock Crushers & Mines(P) Ltd, Monarch Cement Works, Charuvila Metal Crusher, Lal Metal Crusher, Aaramam Industries, Sarathy Metal Crusher, Korien Granites Industries, Periyar Granites (p) Ltd, Aradhana Industries, union Granites, Modern Cemato Bricks, Parathuvayalil Granites, Star Granites, Afsiya Granites, Ansal Granite Products, Venad Granites, Madaparambil Granites, St. Martin Granites, CMJ Granites, Five Star Stone Crusher and Hollow bricks, Mount Valley Granites.

(74) The Committee directs to submit the collection particulars related to M/s Vikas Granites.

(75) Regarding the cases related Kohinoor Granite Industries, Feroze Granite Industries, Al-Madeena Metals and Cement Industries, the Committee directs to submit a report on whether the Department has sought any legal opinion regarding the scope of second appeal.

(76) The Committee urges the Department to submit the present status

of the action taken in respect of ACK Sons Rock processing unit.

(77) The Committee directs to produce the copy of the Appellate orders related to PJP Granites, Three Star Granites, Shakthi Granites, Chithara Metal Crusher, Abson Aggregates, KVM Industries, Perumbavoor Aggregates, Mundakkal Granites, Punnekottayil Granites and Periyar Associates.

(78) The Committee directs to furnish the present status of the appeal filed in respect of K.J. Vasudevan Nair Granites, Blue Mountain Granites and Jayam Sands & Gravel (P) Ltd.

(79) The Committee directs to submit the detailed report on Thomson Granites.

(80) The Committee directs to submit a detailed report regarding the action taken on the audit objection along with the copy of assessment order in respect of Satyam Granite Industries.

(81) Regarding Ananthapuri Blue Metals, the Committee directs to submit the report of the Intelligence Officer.

(82) The Committee directs to submit the report of the spot enquiry in respect of New excel Granites and Poovottu Industries.

(83) The Committee directs to submit a revised report in respect of Kannan Granite Industries and Mubarak Metal Crusher Unit.

(84) The Committee directs to furnish the present status of the case filed in the High Court in connection with Darsan Granite Pvt. Ltd., Devamatha Rock Products, St. Thomas Industries, 2009-10, Poovelil Aggregates, Kannanthanam & Co., shalimar Granites.

(85) In the case of Amal Agencies and Charles Metal Industry, the Committee directs to submit the copy of High Court order.

(86) The Committee directs to submit the present status report related to Well worth Granites from 2009-10 to 2013-14.

(87) The Committee directs to furnish the copy of the assessment order related to M/s Matha Industries and Thottathil Granites.

**(88) The Committee directs to submit an year wise revised report including the present status of the second appeal filed for 2012-13 in respect of Parappuram Granites from 2009-10 to 2012-13.**

**(89) The Committee directs to submit a detailed report regarding the present status of cases filed in the Hon'ble High Court of Kerala in connection with Al Madeena Granites and Hollow Bricks for the years 2009-10 to 2012-12 and the present status of revenue recovery measures initiated for the year 2013-14.**

**(90) The Committee directs to submit the supporting documents to substantiate the reply in respect of MAM industries, PPM Granites., Everone Properties India Pvt. Ltd., Parakkal Rock Products, Megha Granites, MKN Bricks & Blue (P) Ltd., Travancore Blue Metal Blue Star Industries.**

**(91) The Committee directs to submit a revised report in respect of Vijaya Granites, 2009-10 to 2012-13 and Varkisons Engineers.**

**(92) The Committee directs to submit a report on the action taken in respect of Dhanya Granites.**

**(93) The Committee directs to submit the collection particulars related to AKP Granites.**

**(94) The Committee directs to submit the present status of action taken in respect of Kunumpurath Granites and United Granites & Metals.**

## **2.6.2 Non-submission of returns**

In four assessment circles test checked, six assesseees<sup>11</sup> neither opted for compounding nor filed return in Form No. 10 disclosing the turnover. Even though such information was available in the records submitted by the assessee in offices like local body, KSEBL, KSPCB and Mining and Geology Department along with the records submitted for registration, the assessing authority had not taken any action to gather such information as directed in the Departmental Circular and to utilise them in

<sup>11</sup> Best Granites, Valakkavu Granites (P)Ltd, Thomson Granites, Pawan Quarry & Aggregates Pvt Ltd, Devamatha Rock Products, Parakkal Granites.

assessment/permission for compounding. This resulted in short levy of tax, interest and penalty of ₹ 14.44 crore as given in **Appendix III(5)**.

The benefits enjoyed by the assesseees ranged from ₹ 18.90 lakh (M/s Devamatha Rock Products) to ₹ 769.64 lakh (M/s Best Granites).

Non submission of turnover details in the form of annual accounts by the assesseees was the main reason for escape of turnover resulting in evasion of tax.

The assessing authorities were not verifying the correctness of turnover of the assessee in compounded cases as well as non compounded cases with reference to their annual accounts.

On this being pointed out (May 2016) the Additional Chief Secretary (Taxes) stated that action would be initiated to examine the cases pointed out.

**[Audit paragraph 2.6.2 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2016 (Revenue Sector)]**

**[Notes received from the Government on the above audit paragraph are included as Appendix-II]**

**Excerpts from the discussion of the committee with officials concerned**

(95)The Committee accepted the explanation furnished by the Department related Valakkavu Granites (P) Ltd and Devamatha Rock Products. Regarding the case related to Pawan Quarry & Aggregates Pvt. Ltd, the Additional Commissioner, GST Department informed that revenue recovery measures were progressing in that case and the present status would be submitted. While considering the case related to Best Granites, 2009-10, the Additional Commissioner, GST Department informed that the dealer was assigned a Company Identification Number (CIN) instead of a Taxpayer Identification Number (TIN) due to a technical error; consequently, the return was filed using the CIN. That misidentification posed challenges for the Accountant General. The Committee directed to submit the supporting documents to substantiate the reply. Regarding the case related to Thomson Granites,

2009-10 to 2013-14, the Committee directed to submit the copy of the High Court order. Regarding the case related to Parakkal Granites, 2012-13, the Additional Commissioner, GST Department informed that assessment notice had been issued and the case was pending before the Hon'ble High Court.

### **Conclusions/ Recommendations**

**(96)The Committee directs the Department to submit the present status of revenue recovery measures initiated in connection with Pawan Quarry & Aggregates Pvt. Ltd.**

**(97) The Committee directs to submit the supporting documents to substantiate the reply in respect of Best Granites.**

**(98)The Committee directs to submit the copy of the relevant High Court order regarding Thomson Granites.**

**(99) The Committee directs to furnish the present status of the case filed before the Hon'ble High Court of Kerala in respect of Parakkal Granites.**

### **2.6.3 Non-registration of metal crushing units under KVAT Act**

Under Section 15C of the KVAT Act, any person who intends to establish an industrial unit may get himself registered under this section. No metal crushing unit can establish without the permission issued by the local body/KSEBL/KSPCB/Mining and Geology Department. Audit cross-checked the data collected from the KSPCB with the KVATIS and noticed that in four assessment offices, metal crushing units of four assessees were not registered under the KVAT Act. The assessing authority did not take any action under Rule 17A of the KVAT Rules to give compulsory registration to the assessees. As the turnovers of the dealers were not ascertainable, actual loss of revenue could not be worked out. At the compounded rate, non levy of tax worked out to ₹ 2.13 crore including interest and penalty as detailed in Table 2.19.

Table- 2.19

(₹ in crore)

Sl. No.	Name of dealer	Name of office	Year	Total non levy of tax including interest and penalty
1	M.S. Industries	CTO, Kottarakkara	2011-12 to 2013-14	0.90
2	Kunnumpurathu Granites	CTO, II Circle, Thodupuzha	2012-13 & 2013-14	0.54
3	S.N. Granite & Metal Industries	CTO, Chathanoor	2009-10 to 2013-14	0.51
4	Libas Crushers, Attoor, Kilimanoor	CTO, Attingal	2009-10 to 2013-14	0.18
	<b>Total</b>			<b>2.13</b>

Absence of proper street survey by the assessing authorities/intelligence wing resulted in non registration of metal crushing units and consequent evasion of tax.

There was no effective mechanism in the Department for the street survey and to gather information from other Government Departments/ Agencies, in order to bring the unregistered units under the tax net of CTD.

The above cases were referred to Government in May 2016. In the meeting with Audit, the Additional Secretary (Taxes) stated (May 2016) that departmental action would be initiated against the assessing officers who are not following the departmental instructions given and who are committing the same mistakes. Government in December 2016 stated that in one case assessment has been revised and additional demand of ₹ 57.54 lakh has been created. Further reply has not been received (December 2016).

**[Audit paragraph 2.6.2 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2016 (Revenue Sector)]**

**[Notes received from the Government on the above audit paragraph are included as Appendix-II]**

**Excerpts from the discussion of the committee with officials concerned**

(100) While considering the case related to M.S Industries, 2011-12 to 2013-14, the Additional Commissioner, GST Department informed that the audit observation was not sustainable as the dealer had head office registration and would provide the copy of the registration Certificate. In connection with the case related to Kunnumpurathu Granites, 2012-13 & 2013-14, the Additional Commissioner, GST Department submitted that the audit objection was sustainable and further proceedings had been stayed by the High Court. He also submitted that the objection related to S N Granites & Metals was not sustainable as the dealer was already registered under his father's name. The confusion arose when the PAN card number of the son was erroneously recorded. The Additional Commissioner assured that relevant details would be submitted to the Committee. Regarding the case related to Libas Crushers, 2009-10 to 2013-14, the Additional Commissioner, GST Department submitted that the dealer had remitted the amount under amnesty Scheme. The Committee directed to submit the Chalan details.

**Conclusions/ Recommendations**

**(101) The Committee directs to submit the supporting documents to substantiate the reply in respect of M.S Industries and S.N Granites and Metals.**

**(102) The Committee directs to submit the present status of case files in Hon'ble High Court of Kerala in connection with Kunnumpurath Granites.**

**(103) The Committee directs to submit the chalan details in respect of Libas crushers.**

#### 2.6.4 Short remittance of tax

Under KVAT Act every dealer whose total turnover for a year is not less than ₹ 10 lakh shall be liable to pay tax on his sales at rates prescribed in the schedule to the Act. Further as per the KVAT Act any dealer producing granite metals with the aid of mechanised crushing machines may, at his option, pay compounded tax at the specified rates. Under Rule 24 of KVAT Rule, a dealer is required to submit quarterly/annual return in the case of compounded dealers. The dealer has to submit the monthly/quarterly and annual return, along with the details of payment of tax. Once the dealer has submitted the return the assessing authority shall accept the return within twenty four hours. Return acceptance through KVATIS by assessing authority is a fully computerised process. There was no provision in the software to ensure the consistency in data available under tax due and tax remitted. This resulted in acceptance of return by the System though the entire tax due was not remitted by the assessee. Audit noticed from the returns accepted by assessing authority that in six cases<sup>12</sup> of six assessment circles, the assessee short remitted ₹ 59.19 lakh including interest as shown in **Appendix III(6)**. The tax district wise position is detailed in Table – 2.20.

**Table -2.20**

Name of the Tax District	No. of dealers	Total short remittance of tax including interest
Deputy Commissioner, Thiruvananthapuram	1	9.03
Deputy Commissioner, Idukki	1	25.34
Deputy Commissioner, Thrissur	3	12.92
Deputy Commissioner, Kottayam	1	11.90
<b>Total</b>	<b>6</b>	<b>59.19</b>

(₹ in lakh)

The benefits enjoyed by the assessee ranged from ₹ 3.91 lakh (M/s Rajumon Granites) to ₹ 25.34 lakh (M/s Marthoma Granites).

This was referred to Government in May 2016. In the meeting with Audit

<sup>12</sup> VSC Hollow Bricks, Marthoma granites, Southern Industries, Rajumon Granites, Prince Metal Products and Neerakkal Granites.



(May 2016), the Additional Secretary (Taxes) stated that all the cases would be verified and amount short remitted would be collected. Further reply has not been received (November 2016).

**[Audit paragraph 2.6.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2016 (Revenue Sector)]**

**[Notes received from the Government on the above audit paragraph are included as Appendix-II]**

**Excerpts from the discussion of the committee with officials concerned**

(104) The Committee accepted the reply furnished by the Department in connection with Rajumon Granites and Prince Metal Products.

(105) While considering the cases related to VSC Hollow Bricks, the Additional Commissioner, GST Department submitted that the audit objection was sustainable and the dealer had remitted the amount. The present status of the case was currently not available and the revised report would be submitted. Regarding Marthoma Granites, he stated that the audit objection was sustainable and the dealer had remitted the entire amount. The Committee accepted the reply furnished by the Department. Regarding Southern Agencies, the Additional Commissioner, GST Department informed that the amount had been remitted based on the intelligence inspection report. The Senior Audit Officer requested to submit the collection details and he agreed to submit the details. Regarding Neerakkal Granites, the Additional Commissioner, GST Department informed that although the dealer had to remit the payment in Form 10 D, the payment had been made through quarterly returns filed from April to September, exceeding the actual amount owed. The Accountant General had reviewed only Form 10 D. The Additional Commissioner further stated that in the second quarter, rather than remitting the amount in Form 10 D, it had been paid through an alternative return form and the supporting documents to substantiate reply would be provided.

(106) The Committee directed the Department to submit the present status of revenue recovery measures initiated in all the cases referenced above and also directed to submit the copies of appellate orders and the details of cases pending before the Hon'ble High Court within 21 days.

#### **Conclusions/ Recommendations**

**(107) The Committee directs to submit a revised reply including collection particulars in respect of VSC Hollow Bricks.**

(108) The Committee directs to furnish the collection particulars in respect of Southern Industries.

(109) The Committee directs to submit supporting documents to substantiate the reply in respect of Neerakkal Granites.

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



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

APPENDIX I

## SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

Sl No	Para No	Deaprtment concerned	Conclusion/Recommendation
1	14	Taxes	The Committee expresses its displeasure over the undue delay in completing the revenue recovery proceedings and directs the Department to take necessary actions to accelerate the process. The Committee also directs the Department to collect a detailed report from the concerned Revenue Authorities regarding the reasons for the delay in completing the recovery proceedings and to submit it before the Committee within two months.
2	15	Taxes	The Committee is concerned with the lack of responsiveness on the part of the officials in providing pertinent responses during the witness examination and directs the Department to provide a comprehensive report regarding the current status of revenue recovery proceedings including details such as amount, pendancy, District etc., initiated in connection with M/s Delco Projects, M/s V K Viju, M/s P T Mathai, M/s Creators, M/s TAAK, M/s Yeskay Constructions, M/s V B Electrotech India Pvt Ltd, M/s Modern Plumbing System, M/s Align Builders, M/s Sherin Hi- Fabs,

			K.V.J Builders & Developers Pvt Ltd, M/s Impact Equipments, Chaithanya Homes, M/s P K Viswambharan &C, Hope constructions, M/s Consolidated construction Corporation, M/s BBR (India) Ltd, Anilkumar G, M.P Sadanandan, M/s. Decor Delight, M/s Falcon Interiors, Albert Raj, Gopinathan Nair, G S Builders & Connectors Pvt. Ltd, M/s Marvel Floorings, cynosure power Systems, M/s. Aqua designs India Pvt, Ltd, Shri G Santhosh kumar.
3	16	Taxes	The Committee directs the Department to submit the collection particulars regarding the cases related to M/s Cherian Varky Construction Company Pvt. Ltd, M/s V K Johny, M/s V C Constructions, M/s Cemex Ptojects Pvt. Ltd, GKR Associates, and M/s Zion Glass Land in which additional demands had already been created.
4	17	Taxes	The Committee directs the Department to submit a report on the present status of cases filed in various forums related to Cochin Engineering & Consultancy Pvt. Ltd, M/s Nutech Builders, M/s AAG India Pvt Ltd, M/s Fujitech India Pvt Ltd. and M/s Celestial Infrastructure Pvt. Ltd. to the Committee within a month.
5	18	Taxes	The Committee directs the Department to submit a copy of the relevant court order

			related to Advance Engineering and Infrastructure Pvt. Ltd.
6	19	Taxes	The Committee directs the Department to submit the documents to prove the exact sub contract receipts received during other years were subjected to tax on cases related to M/s GR TECH Services, M/s. Green worth Infrastructures Pvt. Ltd and M/s Nirman Engineers.
7	20	Taxes	The Committee directs the Department to submit the supporting documents to prove that the dealer had paid the amount in the financial year 2012-13 related to K J Sebastian, 32072078125, 2013-14.
8	21	Taxes	The Committee directs the Department to submit the reconciliation statement and other supporting documents to substantiate the reply in case of the objection related to M/s Automation Asia Associates Pvt. Ltd.
9	22	Taxes	Regarding the case related to K T Mathew & Company, the Committee urges the Department to submit a revised report.
10	23	Taxes	The Committee directs to submit the copy of Form 20 F in connection with the case related to M/s Athira Industries.
11	24	Taxes	The Committee directs to submit the supporting documents to substantiate the reply, in connection with the objection related to Nakshathra Builders.

12	25	Taxes	Regarding M/s Cordial Foundation Pvt. Ltd, the Committee directs to submit a revised report regarding the audit observation along with a copy of the appellate order.
13	26	Taxes	The Committee directs to submit a revised reply along with supporting documents in connection with the objection related to M/s City Aluminium Fabricator.
14	29	Taxes	The Committee directs the Department to submit the present status of the case filed in the Hon'ble High Court of Kerala in connection with the case related to M/s Kerala State Construction Corporation Ltd.
15	30	Taxes	The Committee directs to submit a revised reply regarding the audit observation related to M/s Greenworth Infrastructure Pvt. Ltd.
16	31	Taxes	The Committee urges to submit the supporting documents to substantiate the reply in case related to Manual Joseph, 2012-13 and 2013-14.
17	34	Taxes	The Committee directs to submit the current status of the WP(C) filed in the High Court in case related to George Projects Pvt. Ltd, 2012-13&2014-15. .
18	35	Taxes	The Committee directs to submit the Collection particulars regarding M/s Sherin Hi-Fabs, 32072033755, 2012-13.
19	36	Taxes	The Committee directs to submit the present

			status of the WP(C) filed in High Court regarding M/s Sherin Hi-Fabs Contracts(I) Pvt Ltd, 3207063859, 2012-13.
20	39	Taxes	Regarding the objection related to incorrect grant of exemption of sub contract turnover, the Committee directs the Department to submit the collection particulars in respect of Asset Homes, 2014-15 and Mabel Engineers Pvt. Ltd.,2014-15.
21	40	Taxes	The Committee urges to submit the present status of W P(C) filed in connection with M/s Kerala State Construction Corporation Ltd, 2012-13 and the current status of revenue recovery measures initiated for the year 2013-14.
22	41	Taxes	The Committee directs to submit the present status of the action taken by the Department on the objection related to Tikanar Homes.
23	42	Taxes	The Committee directs to submit the present status of action taken in respect of M/s Tech Steel.
24	43	Taxes	The Committee directs to submit the supporting documents such as Challan and Form 20 F in the case related to Nirmithi Kendra.
25	44	Taxes	Regarding M/S EKK & Co, 2013-14, the Committee directs to submit the supporting documents to substantiate the reply.
26	48	Taxes	The Committee directs to submit the present status of the action taken in respect of M/S EKK

			& Co. related to the non-deduction /short deduction of TDS on sub contract payments at stipulated rate.
27	49	Taxes	Regarding M/s TRDCL, the Committee directs to submit the copy of Form 20 F.
28	50	Taxes	The Committee directs to submit the present status of the revenue recovery proceedings related to M/s Heera Construction Co Ltd.
29	52	Taxes	The Committee directs to submit the present status of the case filed in relation with M/s EKK & CO.
30	70	Taxes	The Committee directs to submit the present status of the revenue recovery proceedings initiated in connection with Marva Metals, 2011-12, 2012-13 and 2013-14 and collection particulars for the years 2009-10 and 2010-11..
31	71	Taxes	The Committee directs to submit the present status of the revenue recovery proceedings initiated in connection with Esskay Industries, A.S. Industries, Nabilson Granites, Raja Granitess, Badhusha Metals, Navodaya Granites, Thomson Granites, M S Building Products, Valluvanad Granites, St. Thomas Industries, 2010-11 to 2013-14,
32	72	Taxes	The Committee directs to submit the present status of the revenue recovery procedures initiated in connection with M G Industries, 2010-11 and 2013-14 and the



			copy of the order of DC (A), Ernakulam for the years 2011-12 and 2012-13.
33	73	Taxes	The Committee urges the Department to submit the chalan details in respect of Kavumkal Granites (Pvt) Ltd, Ricko Rocks and Granites, Stonage Metal Crusher, Plakkatu Granites Industries, Konni Kochin Granites, Ravindra Rock Crushing Plant, Central Granites, Southern Industries, Panthalookaran Granites, Rajumon Granites, Thoomkuzhy Granites, CBM Enterprises, Green Rock Crushers & Mines(P) Ltd, Monarch Cement Works, Charuvila Metal Crusher, Lal Metal Crusher, Aaramam Industries, Sarathy Metal Crusher, Korien Granites Industries, Periyar Granites (p) Ltd, Aradhana Industries, union Granites, Modern Cemato Bricks, Parathuvayalil Granites, Star Granites, Afsiya Granites, Ansal Granite Products, Venad Granites, Madaparambil Granites, St. Martin Granites, CMJ Granites, Five Star Stone Crusher and Hollow bricks, Mount Valley Granites.
34	74	Taxes	The Committee directs to submit the collection particulars related to M/s Vikas Granites.
35	75	Taxes	Regarding the cases related Kohinoor Granite Industries, Feroze Granite Industries, Al-Madeena Metals and Cement Industries, the Committee directs to submit a report on whether the Department has sought any legal

			opinion regarding the scope of second appeal.
36	76	Taxes	The Committee urges the Department to submit the present status of the action taken in respect of ACK Sons Rock processing unit.
37	77	Taxes	The Committee directs to produce the copy of the Appellate orders related to PJP Granites, Three Star Granites, Shakthi Granites, Chithara Metal Crusher, Abson Aggregates, KVM Industries, Perumbavoor Aggregates, Mundakkal Granites, Punnekottayil Granites and Periyar Associates.
38	78	Taxes	The Committee directs to furnish the present status of the appeal filed in respect of K.J. Vasudevan Nair Granites, Blue Mountain Granites and Jayam Sands & Gravel (P) Ltd.
39	79	Taxes	The Committee directs to submit the detailed report on Thomson Granites.
40	80	Taxes	The Committee directs to submit a detailed report regarding the action taken on the audit objection along with the copy of assessment order in respect of Satyam Granite Industries.
41	81	Taxes	Regarding Ananthapuri Blue Metals, the Committee directs to submit the report of the Intelligence Officer.
42	82	Taxes	The Committee directs to submit the report of the spot enquiry in respect of New excel Granites and Poovottu Industries
43	83	Taxes	The Committee directs to submit a revised report in respect of Kannan Granite

			Industries and Mubarak Metal Crusher Unit.
44	84	Taxes	The Committee directs to furnish the present status of the case filed in the High Court in connection with Darsan Granite Pvt. Ltd., Devamatha Rock Products, St. Thomas Industries, 2009-10, Poovelil Aggregates, Kannanthanam & Co., shalimar Granites.
45	85	Taxes	In the case of Amal Agencies and charles Metal Industry, the Committee directs to submit the copy of High Court order.
46	86	Taxes	The Committee directs to submit the present status report related to Well worth Granites from 2009-10 to 2013-14.
47	87	Taxes	The Committee directs to furnish the copy of the assessment order related to M/s Matha Industries and Thottathil Granites.
48	88	Taxes	The Committee directs to submit an year wise revised report including the present status of the second appeal filed for 2012-13 in respect of Parappuram Granites from 2009-10 to 2012-13.
49	89	Taxes	The Committee directs to submit a detailed report regarding the present status of cases filed in the Hon'ble High Court of Kerala in connection with Al Madeena Granites and Hollow Bricks for the years 2009-10 to 2012-12 and the present status of revenue recovery measures initiated for the year 2013-14.
50	90	Taxes	The Committee directs to submit the supporting documents to The Committee directs to submit the present status of the revenue recovery proceedings initiated in connection with Esskay Industries, A.S. Industries, Nabilson Granites, Raja Granites, Badhusha Metals, Navodaya Granites, Thomson Granites, M S Building Products, Valluvanad Granites, St. Thomas Industries, 2010-11 to 2013-14, substantiate the reply in respect of MAM industries, PPM Granites., Everone Properties India Pvt. Ltd., Parakkal Rock Products, Megha Granites, MKN Bricks &Blue (P) Ltd., Travancore Blue Metal Blue Star Industries.

51	91	Taxes	(91) The Committee directs to submit a revised report in respect of Vijaya Granites, 2009-10 to 2012-13 and Varkisons Engineers.
52	92	Taxes	The Committee directs to submit a report on the action taken in respect of Dhanya Granites.
53	93	Taxes	The Committee directs to submit the collection particulars related to AKP Granites.
54	94	Taxes	The Committee directs to submit the present status of action taken in respect of Kunumpurath Granites and United Granites & Metals
55	96	Taxes	The Committee directs the Department to submit the present status of revenue recovery measures initiated in connection with Pawan Quarry & Aggregates Pvt. Ltd.
56	97	Taxes	The Committee directs to submit the supporting documents to substantiate the reply in respect of Best Granites
57	98	Taxes	The Committee directs to submit the copy of the relevant High Court order regarding Thomson Granites.585
58	99	Taxes	The Committee directs to furnish the present status of the case filed before the Hon'ble High Court of Kerala in respect of Parakkal Granites.
59	101	Taxes	The Committee directs to submit the supporting documents to substantiate the reply in respect of M.S Industries and S.N Granites and Metals.

60	102	Taxes	The Committee directs to submit the present status of case files in Hon'ble High Court of Kerala in connection with Kunnumpurath Granites.
61	103	Taxes	The Committee directs to submit the chalan details in respect of Libas crushers.
62	107	Taxes	The Committee directs to submit a revised reply including collection particulars in respect of VSC Hollow Bricks.
63	108	Taxes	The Committee directs to furnish the collection particulars in respect of Southern Industries.
64	109	Taxes	The Committee directs to submit supporting documents to substantiate the reply in respect of Neerakkal Granites.

Annexure II

Notes furnished by the Department

**REMEDIAL**  
**MEASURES**  
**TAKEN REPORT**  
**ON**  
**C&AG 2016**

# **CHAPTER II**

**Para 2.5 & 2.6**

**Para 2.5.3.1**

<b>Para No.</b>	<b>Gist of the Case</b>	<b>Present Position</b>
<b>2.5.3.1 Sl.No.1</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contract-</p>	<p><b><u>1. Grasshopper (32041505801)</u></b>  <b><u>2012-13 to 2014-15</u></b>  <b><u>CTO(WC), Alappuzha</u></b></p> <p><b><u>2012-13</u></b></p> <p>Assessment for the year 2012-13 in respect of the assessee was completed vide order No.32041505801/2012-13 dated 15.12.2016 demanding Rs.3,29,588/- as tax and Rs.1,48,315/- as interest. An amount of Rs.6,59,180/- was also demanded as penalty vide order no.32041505801/2012-13 dated 16.12.2016. The entire demand is under RR before the District Collector, Alappuzha. The assessee remitted 20% of the demand and stay allowed by the Deputy Commissioner(A)Kollam for the year 2012-13 as per KVATA (Alp) 354/18 to 359/18. Remitted Rs.2,40,846/- vide chalan No.KL008456739201819M dated 12.11.2018. For the balance amount Rs.88,742/- opted amnesty scheme 2020 and paid Rs.35,497/- (40% of Tax Rs.88,742/-) vide chalan No.KL011624527202021E dated 04.11.2020. Total Collection Rs.2,76,343/- (Rs.2,40,846/-+Rs.35,497/-).</p> <p><b><u>2013-14</u></b></p> <p>Assessment for the year 2013-14 in respect of the assessee was completed vide order no.32041505801/2013-14 dated 15.12.2016 demanding Rs.29,982/- as tax and Rs.9,894/- as interest. An amount of Rs.44,965/- was also demanded as penalty vide order no.32041505801/2013-14 dated 16.12.2016. The entire demand is under RR before the District Collector, Alappuzha. The assessee remitted</p>



	<p>tors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>20% of the demand and stay allowed by the Deputy Commissioner(A) Kollam for the year 2013-14 as per KVATA (Alp) 354/18 to 359/18. Remitted Rs.18,287/- vide chalan No.KL008456739201819M dated 12.11.2018. For the balance amount Rs.11,695/- opted amnesty scheme 2020 and paid Rs.4,678/- (40% of Tax Rs.11,695/-) vide chalan No.KL011624527202021E dated 04.11.2020. Total Collection Rs.22,965/- (Rs.18,287/- +Rs.4,678/-).</p> <p><b><u>2014-15</u></b></p> <p>Assessment for the year 2014-15 in respect of the assessee was completed vide order no.32041505801/2014-15 dated 15.12.2016 demanding Rs.17,675/- as tax and Rs.3,712/- as interest. An amount of Rs.35,350/- was also demanded a penalty vide order no.32041505801/2014-15 dated 16.12.2016. The entire demand is under RR before the District Collector, Alappuzha. The assessee remitted 20% of the demand and stay allowed by the Deputy Commissioner(A) Kollam for the year 2014-15 as per KVATA (Alp) 354/18 to 359/18. Remitted Rs.12,125/- vide chalan No.KL008456739201819M dated 12.11.2018. For the balance amount Rs.5,550/- opted amnesty scheme 2020 and paid Rs.2,220/- (40% of Tax Rs.5,550/-) vide chalan No.KL011624527202021E dated. 04.11.2020. Total Collection Rs.14,345/-(Rs.12,125/- +Rs.2,220/-).</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.2</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>2. Avance Engineering and Infrastructure Pvt. Ltd.</u></b> <b><u>(32072044544)</u></b> <b><u>2014-15</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment Completed vide order no. 32072044454/2014-15 dated 23.06.2018. Additional demand created Rs.13.86 lakhs. WP(C) disposed setting aside the assessment order.</p>

Para No.	Gist of the Case	Present Position
2.5.3.1 Sl.No.3	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/ principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>3. Delco Projects Pvt. Ltd.</u></b>  <b><u>(32072070082)</u></b>  <b><u>2012-13</u></b>  <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment Completed vide order no.32072070082/2012-13 dated 05.09.2018. Additional demand created Rs.42.13 lakhs. RRC No.115/19-20 dated 28.5.2019 issued to Deputy Commissioner, Ernakulam.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.4</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/ principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>4. Cochin Engineering &amp; Consultancy Pvt. Ltd.</u></b> <b><u>(32072068304)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed vide order No.32072068304/2012-13 dated 10.01.2019. RRC issued. WP(C)No.17352/19 pending with the Hon'ble High Court.</p>

Para No.	Gist of the Case	Present Position
2.5.3.1 Sl.No.5	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in es-</p>	<p><b><u>5. M/s. Cherian Varkey Construction Company Pvt. Ltd.</u></b> <b><u>(32072054874)</u></b> <b><u>2014-15</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>In Audit Objection the TIN mentioned against the dealer is 32072054874 but the correct TIN is 32072054894.</p> <p>As per Audit objection and other defects a notice U/s 25(1) was issued on 22.10.2020. The dealer filed reply against this notice. In their reply, the dealer stated that “ It is proposed in the notice to assess Rs.1,88,15,159/- on account of recoveries from sub-contractors. Out of this, Rs.9,61,334/- relate to service charges realized. The balance amount taxable is Rs.17853825/- which has been included in the taxable turnover shown in part III B Rs.58827004/- and tax has been paid ( Annexure III to Form 13 )”</p> <p>After consideration of reply pointed out these defects, total compounded receipts reported is Rs. 48,36,77,836/- and the assessee claimed exemption for sub contract payment made for Rs. 9,41,78,059/-. The assessee produced 20 H Certificates and awarder TDS statements declaring sub contract payment effected and TDS remitted for the same through online. The awarder TDS statements filed have been cross verified with reference to returns filed by the sub contractors in the KVATIS. As per TDS statement the awarder <i>assessee has effected sub-contract payment of Rs.8,68,19,299/-</i> and tax against which is also seen paid. The documents produced have been verified with reference to returns filed by the sub contractors in KVATIS and on verification the claim of the assessee is found admissible to the tune of Rs. 7,77,84,816/- and allowed to that extent and the balance claim</p>

	<p>cape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>is rejected. Subsequently assessment completed including other defects for the year 14-15 U/s 25(1) and created additional demand of Rs.80,84,030/-. The copy of order attached herewith for ready reference. Hence may kindly drop the Audit Objection.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.6</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>6. M/s. GRTECH Services</u></b> <b><u>(32072021054)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>The dealer was issued a notice in accordance with the audit objection raised in the POM and he filed reply stating that all the contract receipts from M/s. Skyline Foundations &amp; Structures has been duly conceded in the return. It is understood that the variation in the figures conceded in the returns and 13 &amp; 13A with that reflected in the statement of sub-contract payment received from M/s. Skyline Foundations &amp; Structures is due to the accounting standard maintained by the dealer. Accordingly the amount shown as contract receipt is the actual bills raised during the year whereas the sub- contract payment received may pertain to other years also. Since no irregularity is there, the audit objection/draft para may please be dropped.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.7</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>7. M/s. V.K. Viju (32072054692)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment Completed as per order No.32072054692/2012-13 dated 25.01.2018. Additional demand created Rs.5,86,315.00. Assessee filed Appeal before DC(A) and as directed by appellate authority assessment modified. Modified demand Rs.2,74,964.00.</p>



Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.8</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>8. M/s. V.K. Johny (32072001772)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Based on the Audit objection, the assessment was completed vide Order.No.32072001722/2012-13 Dated 28.09.2017, creating an additional demand of Rs.1,15,55,272/-(Tax due Rs.78,60,730/- and Interest due Rs.36,94,542/-). The dealer informed that they are willing to settle the arrear by opting amnesty scheme 2024.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.9</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>9. M/s. V.C. Constructions</u></b> <b><u>(32072067123)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC). Ernakulam</u></b></p> <p>Assessment Completed vide order No.32072067123/2012-13 dated 17.07.2017 creating additional demand of Rs.46.72 lakhs. The assessee filed appeal before DC(A) and as directed by the appellate authority assessment modified. Modified demand is Rs.44.36 lakhs. RR issued to IAC, Ekm. RRC. No.178/2017-18 Dated 10.10.2017. The dealer informed that they are willing to settle the arrear by opting amnesty scheme 2024.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.10</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>10. M/s. Greenworth Infrastructures Pvt. Ltd</u></b> <b><u>(32072097341)</u></b> <b><u>2012-13 &amp; 2013-14</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>The dealer was issued a notice in accordance with the audit objection raised in the POM and he filed reply stating that all the contract receipts from M/s.Kerala State Construction Corporation Ltd has been duly conceded in the return. It is understood that the variation in the figures conceded in the returns and 13 &amp;13A with that reflected in the statement of sub-contract payment received from M/s.Kerala State Construction corporation is due to the accounting standard maintained by the dealer. Accordingly the amount shown as contract receipt is the actual bills raised during the year whereas the sub-contract payment received may pertain to other years also. Since no irregularity is there, the audit objection/draft para may please be dropped.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.11</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>11. M/s. P.T. Mathai Construction Co. Pvt. Ltd (32072025565)</u></b> <b><u>2012-13 &amp; 2013-14</u></b> <b><u>CTO(WC),Ernakulam</u></b></p> <p><b><u>2012-13</u></b> Assessment completed as per order No.32072025565/2012-13 dated 24.11.2016. Additional demand created Rs.4.65 lakhs. RRC issued to the District Collector, Ernakulam is pending.</p> <p><b><u>2013-14</u></b> Assessment completed as per order No.32072025565/2013-14 dated 24.11.2016. Additional demand created Rs.44.22 lakhs. RRC issued to the District Collector, Ernakulam is pending.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.12</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>12. M/s. Creators</u></b> <b><u>Constructions</u></b> <b><u>(32072023091)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed. RRC issued.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.13</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>13. M/s. TAAK Constructions</u></b> <b><u>(32072098926)</u></b> <b><u>2012-13 &amp; 2013-14</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p><b><u>2012-13</u></b> Assessment for the year 2012-13 completed as per order No.32072098926/2012-13 dated 25.08.2017 creating additional demand of Rs.1.18 lakhs. Assessee filed appeal before DC(A) and as directed by appellate authority assessment modified vide order no.32072098926/12-13 dated 05.06.2020. Modified demand Rs.72,539/-.</p> <p><b><u>2013-14</u></b> Assessment for the year 2013-14 completed as per order No.32072098926/2013-14 dated 27.01.2017 creating additional demand of Rs.2.56 lakhs. Assessee filed appeal before DC(A) and as directed by appellate authority assessment modified vide order no.32072098926/13-14 dated 13.08.2020. Demand NIL.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.14</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>14. M/s. Yeskay Constructions</u></b> <b><u>(32072070104)</u></b> <b><u>2012-13 &amp; 2013-14</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p><b><u>2012-13</u></b> Assessment completed vide order dated 22.03.2019 and created demand of Rs.15,11,362.00. RRC issued.</p> <p><b><u>2013-14</u></b> Assessment completed vide order dated 22.08.2019 and created demand of Rs.13,63,976.00. RRC issued.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.15</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>15. M/s. Nutech Builders</u></b> <b><u>(32072025925)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed as per order No.32072025925/2012-13 dated 20.01.2018. Additional demand created Rs.2.36 lakhs. Assessment to be modified as per order no.KVATA 835/2019.</p>



Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.16</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>16. M/s. V.B.Electrotech India Pvt. Ltd.</u></b> <b><u>(32072075831)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed as per order No.32072075831/2013-14 dated 19.06.2017 creating additional demand of Rs.9.22 lakhs. Appellate authority as per KVATA 2558/17 dated 28.02.2018 directed to modify the assessment. The direction was complied vide order no.32072075831/2013-14 dated 17.07.2020 and modified demand is Rs.2.76 lakhs.</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.1</b> <b>Sl.No.17</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement on-line in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>17. M/s. Modern Plumbing System</u></b>  <b><u>(32072008824)</u></b>  <b><u>2013-14</u></b>  <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed as per order No.32072008824/2013-14 dated 16.12.2016 creating additional demand Rs.22.68 lakhs.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.18</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment. In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>18. M/s. Align Builders</u></b> <b><u>(32072047694)</u></b> <b><u>2013-14 &amp; 2014-15</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p><b><u>2013-14</u></b> As noted by the Audit M/s AVK Meritage Homes (India) Pvt Ltd, bearing TIN 32072076134 had shown sub contract payment of Rs.1,36,30,282/- to M/s Align Builders. But the latter has conceded only Rs.1,12,37,046/- in his annual return/Form 13-A statement, thus under reporting a turnover of Rs.23,93,236/-. The books of accounts of the dealer were verified on the basis of the above and assessment completed vide this office order dated 28.03.2017 creating additional demand of Rs.1.99 lakhs.</p> <p><b><u>2014-15</u></b> For the year 2014-15 also, likewise M/s AVK Meritage Homes had conceded sub-contract payment of Rs.1,22,72,212/- to the assessee. But M/s Align Builders has conceded contract receipt of Rs.1,02,00,577/- in the annual return/Form 13A statement, thus under reporting a turnover of Rs.20,71,635/-. Considering the above defect assessment was completed vide this office order dated 28.03.2017. Creating additional demand of Rs.1.88 lakhs.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.19</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>19. M/s. AAG India Pvt. Ltd.</u></b> <b><u>(32072008522)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed as per order No.32072008522/2013-14 dated 12.01.2018. Additional demand Rs.14,93,685.00. RRC No.241/2017-18 dated 09.03.2018 has been issued. Assessment modified as per KVATA No.982/18(2013-14).</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.1</b> <b>Sl.No.20</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement on-line in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>20. M/s. A &amp; P Infra Realtors Pvt. Ltd.</u></b>  <b><u>(32072010028)</u></b>  <b><u>2013-14</u></b>  <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed vide order dated 03.10.2015 and creating additional demand of Rs.17,200.00. Penalty:Rs.10,000/- and Interest:Rs.7,200/-. The dealer opted Amnesty Scheme and settled the arrear.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.21</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>21. M/s. Fujitec India Pvt. Ltd.</u></b> <b><u>(32072037737)</u></b> <b><u>2014-15</u></b> <b><u>CTO(WC). Ernakulam</u></b></p> <p>The books of accounts of M/s Fujitech India Ltd has been verified and assessment completed fixing a taxable turnover of Rs.4,11,55,831/- &amp; the tax due @ 14.5% on the above is Rs. 59,67,595/-. The balance tax and interest due after deducting works contract tax collected by awarder is Rs. 20.83 Lakhs. Appeal filed against the assessment order.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.22</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement on-line in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>22. M/s. Seguro Foundations</u></b> <b><u>(32072066908)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC). Ernakulam</u></b></p> <p>Assessment completed as per order No.32072066908/2013-14 dated 7.10.2015. Additional demand created Rs.24,47,747.00. Dealer paid full amount vide chalan No. 389 dated 30.10.2015.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.23</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>23. M/s. Nirman Engineers</u></b> <b><u>(32072087744)</u></b> <b><u>2014-15</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Pre-assessment notice dated 14.02.2017 was issued based on the POM and the dealer filed objection to the proposals contained in the notice, which is self explanatory. The variation between the 13&amp;13A statement of the assessee and that of the sub-contract payment statement of the awarder M/s. Abad Builders (P) Ltd of Rs.1,32,25,509/- is only due to accounting standard adopted by the dealer. Since no turnover has escaped assessment, it is requested that the audit objection may please be dropped.</p>



Para No.	Gist of the Case	Present Position						
2.5.3.1 Sl.No.24	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub</p>	<p><b><u>24. M/s. Colour Consultants &amp; Contractors</u></b> <b><u>(32072047244)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>The C&amp;AG vide para 2.5.3.1 found that certain sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns which resulted in turnover escaped assessment. The Audit cross checked the sub contract payments made by the awarders/principal contractors and noticed that certain sub-contractors failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty. An individual list with turnover escaped and short levy was appended as Appendix IX. As per the list an assessee M/s. Colour Consultants &amp; Contractors (TIN-32072047244) was included in the list and the year to which defect pertains was 2012-13.</p> <p>In connection with the above the following facts are submitted herewith for your kind perusal, M/s. Colour Consultants &amp; Contractors bearing TIN-32072047244 was an assessee on the rolls of Office of the Deputy Commissioner (Works Contract), Ernakulam. Consequent on restructuring of State Goods &amp; Services Tax Department the assessee come under the jurisdiction of this office ie. Taxpayer Services Circle, Vypin.</p> <p>The audit party noticed escaped turnover to the tune of Rs.20,42,606/- for the period 2012-13 as under,</p> <table><tr><td>Total Turnover paid by the awarder</td><td>: Rs.37,33,412.00</td></tr><tr><td>Turnover returned by the assessee</td><td>: <u>Rs.16,90,806.00</u></td></tr><tr><td>Turnover escaped assessment</td><td>: Rs.20,42,606.00</td></tr></table>	Total Turnover paid by the awarder	: Rs.37,33,412.00	Turnover returned by the assessee	: <u>Rs.16,90,806.00</u>	Turnover escaped assessment	: Rs.20,42,606.00
Total Turnover paid by the awarder	: Rs.37,33,412.00							
Turnover returned by the assessee	: <u>Rs.16,90,806.00</u>							
Turnover escaped assessment	: Rs.20,42,606.00							

<p>contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>Based on the audit objection the then competent assessing authority initiated proceedings under section 25A on 07.11.2016. Later, since the notice issued were not served on the registered address of the dealer, the assessing authority in order to protect revenue confirmed the proposal made, and issued an order on 21.11.2016 with an additional demand of Rs.2,75,751/-(Tax) on the escaped turnover of Rs.20,42,606.00. Subsequently, on receipt of the order the dealer applied for rectification of order under section 66 of the KVAT Act 2003. The rectification was requested on the ground that while finalizing the assessment under section 25A the assessing authority adopted the conceded contract receipt value as Rs.16,90,806.00 awarded by M/s. Desai Homes instead of actual Rs.33,22,204.00. The above order was rectified vide order dated 16.03.2017, taking into consideration the turnover declared in the I<sup>st</sup> Quarter of original return &amp; tax remitted. On verification of the rectification application along with connected records, after considering the merit of their claim, the assessing authority rectified the order by adopting Rs.33,22,204.00 as conceded turnover relating to the work awarded by M/s. Desai Homes and created an additional demand of Rs. 55,513/-(Tax) as under,</p> <p style="text-align: right;">Amount paid by the awarder (desai Homes) :Rs.37,33,412.00</p> <p>Turnover returned by the assessee :Rs.33,22,204.00</p> <p>Turnover escaped :Rs.4,11,208.00</p> <p>Tax due @ 13.5% :Rs.55,513.00</p> <p>Consequently, the dealer applied for settlement of the aforesaid arrears under amnesty scheme and settled. The amount settled under amnesty was Rs.17,766/- vide chalan no GRN No. KL021969598202021E dated 30.03.2021.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.25</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/ principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of</p>	<p><b><u>25. K.J. Sebastian</u></b> <b><u>(32072078125)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>“In the light of the Audit objection pointed out notice was issued to Sri. K.J. Sebastian, Kureekkal House, Methanam Road, Edappally, Kochi – 24 regarding conceding of 'Nil' receipts for 2013-14. In this case the Awarder M/s Kerala State Construction Corporation Ltd had conceded payment of sub-contract amount of Rs. 28,96,540/- to the dealer during 2013-14 only.</p> <p>The dealer has appeared and produced the details and copies of the returns filed and books of accounts and the same were verified and it was proved that this amount of Rs. 28,96,540/- was paid to the sub contractor during the 4<sup>th</sup> quarter of 2012-13 (ie. Jan – March 2013) and the same was accounted and conceded in the quarterly return filed for the 4<sup>th</sup> quarter of 2012-13 by Sri. K.J. Sebastian. The TDS was also deducted for the payment made at that time itself. But this was remitted into the Government treasury only on 05.04.2013 by the Kerala State Construction Corporation Ltd.</p> <p>A certificate for the deduction and payment was also produced from the Kerala State Construction Corporation regarding the payment of sub-contract amount and deduction of TDS and remittance. The dealer has also produced the copy of the quarterly return filed for 4<sup>th</sup> quarter of 2012-13 wherein this sub-contract amount Rs.28,96,540/- was conceded in advance.</p> <p>Hence in this case there is no escape of turnover and no loss has occurred to the State exchequer. This mistake occurred only because</p>

	26.37 crore.	of the delayed payment of TDS by the Kerala State Construction Corporation to the Government Treasury. The amount deducted in advance from the dealer was remitted on 01.04.2013 and this was made by online payment vide chalan No.28648514 dated 04.05.2013 and is included in Rs.79,74,658/- in the payment branch of SBI. Hence this case is unsustainable and considering the reply the audit objection may be settled and closed.
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Para No.	Gist of the Case	Present Position
2.5.3.1 Sl.No.26	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>26. M/s. AB-Tek Constructions</u></b> <b><u>(32072090602)</u></b> <b><u>2013-14 and 2014-15</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p><b><u>2013-14</u></b></p> <p>Assessment for the year 2013-14 was completed vide order no. 32072090602/2013-14 dated 13.01.2020 without considering the appellate orders KVATA 3554/2013 dated 02.07.2014 for the year 2013-14. Hence the assessment was modified based on the above appellate orders. The appeals were allowed and assessee requested for adjustment of the amount paid for the stay condition towards the arrears due. Accordingly, the assessment order for the year 2013-14 was modified and rectified as per order no.32072090602/2013-14 (Rectified) dated 30.11.2020 resulting excess tax paid for the year 2013-14 of Rs.14,98,713/-.</p> <p><b><u>2014-15</u></b></p> <p>Assessment for the year 2014-15 was completed vide order no.32072090602/2014-15 dated 30.11.2020 and balance tax due of Rs.11,39,733/- was adjusted from the excess amount in 2013-14.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.27</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement on-line in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>27. M/s. Sherin Hi-Fabs</u></b> <b><u>(32072033775)</u></b> <b><u>2013-14 &amp; 2014-15</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p><b><u>2013-14</u></b> Assessment completed vide order dated 12.3.2019. RRC issued.</p> <p><b><u>2014-15</u></b> Assessment completed. Amnesty opted.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.28</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>28. K.V.J. Builders &amp; Developers Pvt. Ltd.</u></b> <b><u>(32072058472)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed vide order no.3207258472/2013-14 dated 21.05.2019. RRC issued.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.29</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>29. M/s. Cemex Projects Pvt. Ltd.</u></b> <b><u>(32072072905)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed and arrears settled in amnesty scheme 2021-22.</p>



Para No.	Gist of the Case	Present Position
<b>2.5.3.1</b> <b>Sl.No.30</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>30. M/s. Impact Equipments</u></b>  <b><u>(32072096676)</u></b>  <b><u>2014-15</u></b>  <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed as per order No.32072096676/2014-15 dated 26.02.2018. Additional demand created Rs.5,62,887.00. Appeal filed against the assessment order was dismissed as per KVATA 81/2019 (2014-15).</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.31</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>31. J. Abdul Wahid</u></b> <b><u>(32021670385)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Kollam</u></b></p> <p>The audit team reported that they cross checked the subcontract payment made by the principal contractor J.Abdul Wahid for the year 2013-14 failed to file full contract receipt.</p> <p>Verification of the assessment records for the year 2013-14, the assessee had issued Form 20H certificate envisaging subcontract amount Rs.2,98,95,158/- to Kerala State Construction Corporation Ltd, Thiruvananthapuram, is an assessee having TIN. 3207208232 borne on the rolls of Commercial Tax Officer, Works Contract, Ernakulam. The firm had shown subcontract payment of Rs.1,75,73,416/- to the assessee. Thus the assessee filed 'NIL' return during the period which caused in escape turnover of Rs.1,75,73,416/- and consequent short levy of tax.</p> <p>Thus the assessing authority issued notice as per the defects pointed out by the Accountant General. On receipt of the said notice, the assessee filed his willingness to compound the offence departmentally in lieu of prosecution U/s.74 of the Act. Subsequently the maximum compounding fee for 8 lakhs was collected from the assessee vide DD No.270963/17.12.2016.</p> <p>Subsequently the assessee filed a certificate issued from the Kerala State Construction Corporation Ltd., stating that out of the amount Rs. 1,75,73,416/-, only Rs.64,59,059/- was</p>

		<p>actually paid to Sri.Abdul Vahid and the remaining portion of Rs.1,11,14,357/- was paid to Asif Kalam holding TIN.32021698609.</p> <p>The assessment for the year 2013-14 was completed on 30.06.2017 creating a demand Rs.6,42,481/-. Subsequently the contractor submitted tax remittance in certificate in Form No.20F for Rs.5,77,028/- and paid Rs.95,910/- with interest as per cheque No.098318/20.02.2018. Thus the entire amount was collected for the period 2013-14.</p> <p>In this circumstances the audit objection pointed out may kindly be dropped.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.32</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>32. M/s. Alpha One- Hi Tech Infra Pvt. Ltd.</u></b> <b><u>(32121241446)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>During the year 2013-14, M/s. Alfa One High Tech Infra (P) Ltd., Kannur disclosed Rs.89,86,783/- only in annual return where as in the audited statement of accounts, the amount received was shown Rs.7,11,68,072/-. So the assessment was completed adopting this turnover as per Order No. 32121241446/2013-14 dated 14.10.2015, the assessment was completed well before the audit. Total tax liability was Rs.21,42,405/- and TDS deducted paid by awarder Rs.21,35,041/- and the balance tax amount with interest Rs.8,690/- paid vide chalan No.409 dated 15.10.2015. Hence the defect pointed out may kindly be dropped.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.33</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>33. Chaithanya Homes (32051692631)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Kottayam</u></b></p> <p>The audit objection is that the dealer has conceded an amount of Rs. 31,31,210/- being the sub contract payment received from Kerala State Construction Corporation Ltd. (KSCC, Ernakulam) while the KSCC Ltd conceded an amount of Rs.98,67,718/- being sub contract amount. The dealer had under reported turnover of Rs.67,36,508/-.</p> <p>Based on the objection the assessment for the year 2013-14 is completed assessing the turnover of Rs.67,36,508/-, vide order no. 32051692631/2013-14 dated 30.01.2020 and creating an additional demand of Rs.1,20,545/- as tax and Rs. 83,716/- as interest. The demand has been advised for revenue recovery. Informed the dealer about settlement of arrears under amnesty scheme 2024 and the dealer expressed willingness to opt for amnesty.</p> <p>The reason for difference is short levy with demand is explained below: “The awarder KSCC has already deducted tax of Rs.2,24,586.00 for the work of pre-matric hostel, Kumily and the same has been given credit in the assessment order. That is the reason for difference in short levy. The fact is evident from the assessment order”. Hence the objection raised may kindly be dropped.</p>

Para No.	Gist of the Case	Present Position											
2.5.3.1 Sl.No.34	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by</p>	<p align="center"><b><u>34. M &amp; T Constructions</u></b> <b><u>(3204692822)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Kottayam</u></b></p> <p>The audit objection is that as per the statement of sub contract payment furnished by Kerala State Construction Corporation Ltd., the firm had shown sub contract payment of Rs.5,27,93,924.00 to M/s M&amp;T Construction, Vaikom who had not accounted the said transactions. The dealer had under reported the turnover of Rs.5,27,93,924/- which resulted a short levy of Rs.15,83,817/- and interest. The dealer had filed the last three quarterly returns belatedly on 05.01.2017. In the last quarter return, a total contract receipt of Rs.19,72,58,560/- is disclosed and out of which Rs.5,27,93,924/- is the contract receipts from M/s KSCCL. The details of the same as per the quarterly return filed as follows:</p>											
		<table><tr><th>Sl. No</th><th>Awarder Details</th><th>Gross Amount</th><th>Amount Received upto the Previous Quarter</th><th>Amount Received during the quarter</th><th>Balance Outstanding</th></tr></table>	Sl. No	Awarder Details	Gross Amount	Amount Received upto the Previous Quarter	Amount Received during the quarter	Balance Outstanding					
		Sl. No	Awarder Details	Gross Amount	Amount Received upto the Previous Quarter	Amount Received during the quarter	Balance Outstanding						
1	CC/GM/ TVM/ 08/2011 dated 31.12.2011	2,87,41,121/-	2,28,36,986/-	27,20,209/-	31,83,926/-								
2	CC/GM/ TVM/ 10/2012 dated 06.09.2012	2,73,48,301/-	0	1,08,14,701/-	1,65,33,600/-								

<p>the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	3	CC/GM/ TVM/ 02/2012 dated 23.05.2012	3,28,84, 808/-	0	3,14,93, ,001/-	13,91,8 07/-
	4	RG/ TVM/ 26/2010/2 13 dated 22.09.2010	10,00,0 0,000/-	85,55,4 93/-	77,66,0 13/-	8,36,78, 494/-
			<b>18,89,7 4,230/-</b>	<b>3,13,92 ,479/-</b>	<b>5,27,93 ,924/-</b>	<b>10,47,8 7,827/-</b>

The receipts from M/s.KSCCL had been disclosed in the last quarter returns filed and the TDS deducted by the awarder Rs.15,83,817.00 had been claimed by the dealer. The dealer had filed Form 20F certificates for the proof of TDS claim. The awarder payment details for the year 2013-14 also confirms the same.

As per the annual return, there was variation in output tax liability and TDS amount for which clarification was obtained from the dealer. The dealer has reported that some clerical error occurred on filing the January 2014 to March 2014 quarterly returns. At the time of filing returns, in Part K, TDS deduction was shown as Rs.8,16,006/- instead of the actual amount of Rs.81,606/- resulting in difference of Rs.7,34,400/-. The dealer has also produced the Form 20F certificates related to the wrong entry made in Part K of the return, for the proof. Verified the returns filed and documents produced and the clerical mistake occurred has been convinced.

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.35</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment. In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent</p>	<p><b><u>35. M/s. Bridgeway Engineering</u></b> <b><u>(32111510332)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Kozhikode</u></b></p> <p>M/s.Bridgeway Engineering Company filed annual return disclosing a total and taxable turnover of Rs.23,45,24,016/- and Rs.9,16,317/- respectively. Verification of the annual return revealed that out of the total contract amount Rs.9,16,317/- was seen reported as contract receipt for the year. Scrutiny of returns of annual return with Audited Statements revealed that the assessee had received a contract amount of Rs.1,73,64,287/-. Hence a notice was issued proposing to assess Rs.1,73,64,287/-.</p> <p>In reply to the notice, the assessee stated that the difference in the contract income furnished in the Annual return and that in the Audited Statement is that while releasing the Contract income by the awarders, they do not issue VAT remittance particulars in time. So, without the receipt of VAT remittance particulars, the Annual Return is submitted excluding the correct figures of the contract income. During the preparation of Audit Report, the omitted figures of the contract income are included.</p> <p>The contentions raised by the assessee was verified. In the audited statements in Part VII of Form 13A, the assessee has stated the remittance details for the year 2013-14. The assessee has admitted that the contract receipt for the year is Rs.1,73,64,287/- and the remittance is Rs. 5,21,203/-.</p> <p>The tax remittance details were verified with reference to the payment details available in the KVATIS Module. The total contract receipt of Rs. 1,73,64,287/- is from three awarders. The</p>



short levy of tax, interest and penalty of 26.37 crore.	tax at compounded rate has been made during the financial year itself. The details are as below:			
	<b>Name of Awarder</b>	<b>Amount Received</b>	<b>Tax Paid</b>	<b>Date of remittance through online</b>
	Cannanore Spinning Mills	9,16,317/-	27,764/-	15.11.2013
	Kerala State Construction Corporation	26,07,490/- -	78,225/-	05.02.2014
	Kerala State Construction Corporation	38,79,413/- -	1,16,382/-	05.03.2014
	Malappuram Co-operative Spinning Mills	99,61,067/- -	2,98,832/-	29.04.2014
	<b>TOTAL</b>	<b>1,73,64,287/-</b>	<b>5,21,203/-</b>	
	The omission of amount pointed out in the audit for Rs.68.87 lakhs is the contract receipt from Kerala State Construction Corporation. The tax on the above amount has already been remitted through online. No exemption on subcontract has been claimed by the assessee during the year.			
There is no discrepancies in the case and the same is well explained in the assessment order No. 32111510332/2013-14 dated 16-01-2017.				

		<p>On verification it was found that the total contract receipt as per account was Rs.1,73,64,287/- and the dealer had paid the tax due on the same. Actually, they have paid an excess amount of Rs. 274/- i.e, as against the actual dues of Rs. 5,20,929/- they have paid Rs.5,21,203/-. In the circumstances explained above the case may be dropped.</p>
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Para No.	Gist of the Case	Present Position
<b>2.5.3.1</b> <b>Sl.No.36</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>36. M/s. Automation Asia Associates Pvt. Ltd</u></b>  <b><u>(32451711011)</u></b>  <b><u>2013-14 and 2014-15</u></b>  <b><u>CTO(WC), Malappuram</u></b></p> <p><b><u>2013-14</u></b>  Verification of the receipt details in respect of M/s. Automation Asia Associates Pvt. Ltd. For the year 2013-14 reveals that he had remitted tax at compounded rate on the total receipts of Rs.2,99,19,177/- and the total receipts so returned is inclusive of receipts of Rs. 40,00,000/- from M/s. Heera Constructions Company, Thiruvananthapuram. Hence it is non-sustainable and liable to be dropped.</p> <p><b><u>2014-15</u></b>  Scrutiny of the self assessment annual return and related documents produced revealed that the contractor had received an income (receipts) of Rs.2,98,95,000/- from the contract works entertained by him during the period 2014-15. Verification of accounts for the relevant year produced reveals that the total receipts return Rs.2,98,95,000/- is inclusive of receipts (Rs.34,54,216/-) from M/s. Heera Construction Company, Thiruvananthapuram, towards subcontract awarded by them. But as per return filed they had returned receipts from the above awarder only as Rs.33,04,214/-. Verified the banking transaction statement of the contractor which agrees with the figure that disclosed in the accounts. The difference in receipts had already been considered in the final assessment passed by the assessing authority as per office proceedings No.</p>

		32451711011/2014-15 dated 30.06.2016. Copy of the same is also enclosed herewith. Hence the defect pointed out in Audit is non sustainable and liable to be dropped.
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.37</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement on-line in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>37. K.A. Johnson, Railway Contract (32151037735) 2014-15 CTO(WC), Mattanchery</u></b></p> <p>M/s. K.A Johnson is an assessee on the rolls of Deputy Commissioner, Works Contract, Mattanchery. The audit objection was that scrutiny of quarterly returns revealed that during the first and second quarter of 2014-15 the assessee had effected purchase from unregistered dealers for Rs.21,50,656/- but had not remitted tax on this purchase and thus resulted short levy of tax and interest. The assessee was also liable to be imposed upon penalty U/s 67(i)(d) of KVAT Act 2003 amounting to Rs.6,23,690/-.</p> <p>In accordance with the audit objections, the assessing authority completed the assessment vide order no.32151037735/2014-15 dated 30.03.2021, creating additional demand of Rs. 5,05,290/- (Tax:Rs.2,93,773/-, Interest: Rs.2,11,517/-) and penalty for Rs. 6,23,690/- was also imposed vide order no.32151037735/2014-15 dated 30.03.2021. Subsequently the dealer opted amnesty scheme for the year 2021 and remitted Rs.1,76,264/-(ie. 60% of tax due for Rs.2,93,773/-) vide chalan number KL016057978202122E dated 12.11.2021. As there is no arrears outstanding against the dealer, the objection in this regard may kindly be dropped.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.38</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>38. M/s. Celestial Infrastructure Pvt. Ltd. (32151004514) 2012-13 CTO(WC), Mattanchery</u></b></p> <p>M/s.Celestial Infrastructure is an assessee on the rolls of Deputy Commissioner, Works Contract, Mattancherry. In accordance with the audit objection, the assessment in respect of the dealer for the year 2012-13 was completed by the assessing authority, based on the total contract receipt for Rs.1,98,01,439/- as per the order No.32151004514/12-13 dated 29.06.2019 which is rectified as per Order No.32151004514/12-13 dated 24.04.2020.</p> <p>Demand created Rs.31,89,093/- (Tax: Rs.17,23,834/- and Interest: Rs.14,65,259/-).</p> <p>The dealer preferred appeal before the Appellate Authority against the assessment order. The appellate authority as per KVATA No.567/20 dated 23.09.2020 directed to modify the assessment. Aggrieved by this appellate order, Department filed second appeal before the Hon'ble Tribunal. Second Appeal as per TA No.57/2021 posted for hearing 04.01.2023.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.39</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement on-line in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>39. M/s. PK. Viswambaran &amp; C</u></b> <b><u>(32151018003)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC). Mattanchery</u></b></p> <p>M/s. P. K. Viswambaran is an assessee on the rolls of Deputy Commissioner, Works Contract, Mattancherry. In accordance with the audit objection, the assessment in respect of the dealer for the year 2012-13 was completed by the Assessing Authority, as per the order no. 32151018003/2012-13 dated 29.04.2017 and creating the additional demand of Rs.3,32,813/- as tax and Rs.1,63,077/- as interest and the dealer has remitted Rs.66,563/- vide chalan no. KLOO61112382017M/ 28.09.2017. A penalty of Rs.6,65,626/- was also imposed vide order no. 32151018003/2012-13 dated 30.12.2017 and the assessee has remitted Rs.1,33,126/- vide chalan no. KLOO23299012017M dated 31.03.2018. Both the above demands are now pending in RRC No. 65/2017 and RRC No.361/2017 respectively. The assessee filed appeal against the assessment and penalty orders and the Joint Commissioner (A)-I, Ernakulam allowed the appeal against the penalty order as per KVATA 1474/18 dated 05.06.2020. RRC No: 361/2017-18 dt: 12.02.2018 of IAC, Mattancherry is pending. Intimated the dealer about Amnesty.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.40</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in es-</p>	<p><b><u>40. M/s. Shobha Projects and Trade Pvt. Ltd</u></b> <b><u>(32151097934)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Mattanchery</u></b></p> <p>M/s.Sobha Projects &amp; Trade (Pvt) Ltd., is a registered dealer having TIN 32151097934 on the rolls of the Assistant Commissioner, Works Contract, Mattanchery. Followed by the audit objection the assessment for the year 2012-13 was completed vide Order No.32151097934/12-13 dated 31.08.2017 and collected Rs.10,36,500/- vide chalan No. KL00780252201819M dated 25.04.2018. A penalty of Rs.68,32,850/- was also imposed vide order No.32151097934/12-13 dated 31.10.2017 and assessee remitted Rs. 16,66,600/- vide chalan No. KL0022674742018M dated 01.06.2018. Subsequently the assessee filed WPC No. 9862/19 before the Hon'ble High Court of Kerala on the ground that the assessment and penalty order for the year 2012-13 were completed ex-parte and no reasonable opportunity of being heard was granted to the assessee. The Hon'ble High Court set aside the assessment and penalty orders and directed the assessing authority for fresh orders. In pursuance of the directions in WP© the assessee produced books of accounts and supporting documents for verification on 27.06.2019. The fresh assessment was completed as per proceedings No. 32151097934/12-13 dated 31.10.2017. The assessee filed amnesty application dated 05.08.2019 for payment of tax and penalty as per revised order under amnesty scheme 2019. As per the revised order No. 32151097934/12-13 dated 15.07.2019, principal tax due is</p>



	<p>cape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>Rs.18,69,812/- and interest due on principal tax up to July, 2019 is Rs.14,21,057/-. As per the Amnesty Scheme 2019, interest due on principal tax is waived. Therefore the amount already paid Rs.15,58,577/- after the issue of original order dated 07.08.2017 is credited towards the principal tax due. Hence the arrear of tax to be paid for the year 2012-13 under amnesty scheme is Rs. 3,11,235/-.</p> <p>Since the assessee has remitted the entire tax amount as per Cheque No.100008 dated 16.08.19 for Rs.3,11,235/-, the penalty imposed Rs. 44,41,323/- for the year 2012-13 is waived. In the circumstances the audit objection may be dropped.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.41</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement on-line in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>41. Hope Constructions</u></b> <b><u>(32151014638)</u></b> <b><u>2013-14</u></b> <b><u>CTO((WC), Mattancherry</u></b></p> <p>M/s. Hope Construction is an assessee on the rolls of Deputy Commissioner, Works Contract, Mattancherry. The audit objection was that they have not filed returns for 3<sup>rd</sup> and 4<sup>th</sup> quarter and annual return for the year 2013-14. The issue raised in the audit was covered in the assessment and demand created for an amount of Rs.1,67,84,533/- (Rs.94,33,777/- tax and Rs.67,92,319/- interest) as per order dated 20.03.2020. The amount has been advised for revenue recovery as per RRC.No.23/2020-21 and no collection has been reported till date. Hence the audit objection may be dropped.</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.1</b> <b>Sl.No.42</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>42. K.T. Mathew &amp; Company</u></b>  <b><u>(32151033292)</u></b>  <b><u>2013-14</u></b>  <b><u>CTO(WC), Mattancherry</u></b></p> <p>The Audit enquiry in respect of the above file was that the dealer has conceded the contract receipt Rs.4,37,83,395/- with tax liability @ 3% and claimed TDS credit for Rs. 13,13,502/- towards tax remittance without supporting documents to prove the claim filed so far.</p> <p>In response to the Audit enquiry notice U/s. 25(A) was issued to the assessee and the dealer produce 20F in original showing TDS credit for Rs.13,13,502/- towards tax remittance. Hence there is no short levy of tax in this case, and the audit objection may be dropped.</p>

Para No.	Gist of the Case	Present Position								
2.5.3.1 Sl.No.43	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors</p>	<p><b><u>43. Athira Industries</u></b> <b><u>(32151373683)</u></b> <b><u>2013-14</u></b> <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p>M/s. Athira Industries is an assessee on the rolls of State Tax Officer, Second Circle, Perumbavoor. The assessee filed monthly returns for the financial year 2013-14 in Form No.10B declaring contract receipt of Rs.1,48,04,129/- and claimed Rs.4,44,123/- as TDS by the awarder. The entire work was conceded as awarded by 'Thiruvananthapuram Road Development Company Ltd' bearing TIN 32011395603, vide work order No.5106.</p> <p>On verification through KVATIS, it is found that the awarder 'Thiruvananthapuram Road Development Company Ltd' filed awarder statement (Tax Deduction Account No. 32170048299) declaring payment of Rs.1,48,04,129/- to Athira Industries ie the contractor and tax deducted @3% thereon was found remitted through online. Form No.20F covering contract receipt of Rs.1,48,04,129/- issued by Thiruvananthapuram Road Development Company Ltd to the assessee was also submitted before the assessing authority.</p> <p>From the above it is clear that Contract Receipt and TDS claimed by the assessee in the monthly returns filed by him for the financial year 2013-14 perfectly matches with contract receipt conceded by the awarder in their awarder statements. Details of contract receipt and Tax remittance by the awarder is detailed below.</p> <table><tr><th>Quarter</th><th>Contract Receipt Conceded</th><th>TDS by the Awarder as per</th><th>Date of the Online Payment</th></tr><tr><td></td><td></td><td></td><td></td></tr></table>	Quarter	Contract Receipt Conceded	TDS by the Awarder as per	Date of the Online Payment				
Quarter	Contract Receipt Conceded	TDS by the Awarder as per	Date of the Online Payment							

and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.

		<b>Form No.10C</b>	
April 2013 to June 2013	Rs.55,19,329/-	Rs.69,664/-	03.05.2013
		Rs.53,907/-	05.06.2013
		Rs.42,008/-	03.07.2013
July 2013 to September 2013	Rs. 48,44,609/-	Rs.37,877/-	05.08.2013
		Rs.31,529/-	05.09.2013
		Rs.21,019/-	04.10.2013
		Rs.54,913/-	04.10.2013
October 2013 to December 2013	Rs.38,22,181/-	Rs.52,733/-	05.11.2013
		Rs.27,619/-	04.12.2013
		Rs.34,314/-	03.01.2014
January 2013 to March 2013	Rs.6,18,010/-	Rs.18,540/-	04.03.2014
<b>Total</b>	<b>Rs.1,48,04,129/-</b>	<b>Rs.4,44,123/-</b>	

Para No.	Gist of the Case	Present Position
2.5.3.1 Sl.No.44	Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement on-line in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are	<p><b><u>44. M/s.Cheerans Structural</u></b>  <b><u>(32565630916)</u></b>  <b><u>2012-13 &amp; 2013-14</u></b>  <b><u>CTO(WC), Palakkad</u></b></p> <p><b><u>2012-13</u></b></p> <p>Defect pointed out is as follows : As per the statement of sub contract payments relating to the year 2012-13, furnished by the Kerala State Construction Ltd (32072082322) an assessee on the rolls of the Commercial Tax Office (Works Contract), Ernakulam it was noticed that the construction corporation had disclosed contract payment of Rs.6,95,89,922/- to M/s Cheeran Structural by effecting TDS But M/s. Cheeran Structural had disclosed contract receipt from the State Construction Corporation as Rs.4,83,62,040/- only during the year resulting an escapement of turnover of Rs.2,12,27,882/-.</p> <p>When Proposal for assessment was issued, added the turnover shown as per the statement filed by the assessee and adding back the balance suppressed turnover in the case of Kerala State Construction Corporation and 10% of the conceded turnover towards omission &amp; suppression along with the above query. Hence the turn over determined becomes Rs.17,74,92,968/-. Assessment was completed vide order no. 32565630916/12-13 dated 28.10.2017 demanding tax and interest of Rs.28,72,095/- after deducting the tax paid (20F produced).</p> <p>As per KVATA No.519/2017 Dtd: 14.10.2020 , it is directed to modify the original assessment after verifying the defect regarding the work executed in SEZ, addition of Rs.17,00,526/- and the turnover addition made for non production of 13 &amp; 13A. As per the direction accounts verified, regarding the work executed in SEZ the assessee produced Form 43 and the addition regarding this was deleted, regarding the addition of turnover suppression the assessee failed to prove the claim hence it is assessed, regarding the</p>

	<p>unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>addition for non production 13&amp;13A, as per the direction deducted the turnover addition already made and imposed maximum penalty. According to this the original assessment was modified vide office proceedings no.32565630916/12-13(Modified) dated 09.08.2021 demanding tax Rs.4,11,029/- and interest of Rs.1,58,985/-. Intimation given to RR authority to collect the amount. Aggrieved by the order No. 32565630916/12-13 (Modified) dated 09.08.2021 demanding tax Rs. 4,11,029/- and interest of Rs. 1,58,985/-the assessee preferred appeal and the first appellate authority modified the order as per KVATA 43/2021 dated 28/02/2022 of the Deputy Commissioner (appeals), Palakkad. As per the direction of the appellate authority, the demand is modified as NIL since the liability is already paid through return.</p> <p><b><u>2013-14</u></b></p> <p>Defect is as follows : On verification of audit statement and annual return there is a difference of Rs.1,53,83,061/- under the head contract receipt. Being a contractor with CST registration and compounded dealer, the rate of tax applicable was 3% , but on verification of check post transaction it is seen that the dealer purchased goods with tax rate 14.5%&amp;5%. When Proposal for assessment was issued , added the turnover for which 20F was not furnished along with the above diffect. Based on this original assessment was completed vide order no.32565630916/13-14 dated 07.09.2017 demanding tax Rs. 31,56,092/- and interest of Rs.12,93,998/-.</p> <p>As per KVATA No.458/2017 dtd: 14.10.2020, it is directed to modify the original assessment after verifying the accounts, compounding option, interstate purchase and 20F. As per the direction accounts verified, it is found that the assessee had purchased machinery of Rs.21,62,090/- only. Hence balance interstate purchase of Rs. 22,08,610/- is treated as materials used in the execution of works contract. Hence it was assessed @ 14.5% and as per direction of appellate authority credit given for TDS of Rs.46,41,260/-. 32565630916/13-14 (Modified) dated</p>
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		<p>18.03.2022 demanding tax Rs.7,149/- and interest of Rs.6,005/- after giving credit for Rs.1,28,773/-, which was paid through challan under RR authority. Intimation given to RR authority to collect the balance amount.</p> <p>As per the Amnesty scheme 2024 "Tax liabilities up to ₹50,000 in a specified order shall be treated as settled without filing any application for the settlement of arrears." Hence the demand tax Rs.7,149/- and interest of Rs. 6,005/ is waived off.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.45</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>45. Nakshathra Builders</u></b> <b><u>(32091693715)</u></b> <b><u>2014-15</u></b> <b><u>CTO(WC), Palakkad</u></b></p> <p>Based on the audit objection, the books of accounts of M/s.Nakshathra Builders were called for verification and scrutiny of KVATIS was also done. The assessee informed that they have not taken any contract from M/s. Heera Construction Company, Thiruvananthapuram. Verification of KVATIS revealed that the assessee M/s.Nakshathra Builders, Ottapalam, Palakkad bearing TIN 32091693715 had commenced business with effect from 30.09.2014 only and have received only Rs.3,00,000/- as contract receipt during the year. On scrutiny of state wise details in KVATIS it was ascertained that M/s. Heera Construction Company (P) Ltd. Thiruvananthapuram had given sub contract to M/s.Nakshathra Builders, CITADEL, 5/2353/7, Golf Links Road, Kowdiar, Thiruvananthapuram bearing TIN 32011331376 for an amount of Rs. 5,11,56,054/- during the year 2013-14. It is also found that during the year 2014-15 also M/s.Heera Construction Company, Thiruvananthapuram has awarded work to M/s.Nakshathra Builders, CITADEL, 5/2353/7, Golf Links Road, Kowdiar, Thiruvananthapuram bearing TIN 32011331376. M/s.Nakshathra Builders, Thiruvananthapuram has disclosed contract receipts for Rs.2,31,46,314/- during the year 2014-15. No case in this regard . Hence treat this case as non sustainable and may kindly be dropped .</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.46</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by</p>	<p><b><u>46. M/s. Consolidated Construction Corporation</u></b> <b><u>(32091656804)</u></b> <b><u>2012-13 &amp; 2014-15</u></b> <b><u>CTO(WC), Palakkad</u></b></p> <p><b><u>2012-13</u></b> Assessment in respect of M/s.Consolidated Construction Consortium for the year 2012-13 has been completed on 10.08.2017 vide order no. 32091656804/2012-13 demanding balance tax Rs.3,29,57,222/- and interest of Rs.1,71,37,755/-. Assessee filed a writ petition before the Honourable High Court of Kerala vide WP(C) No.34238/2018 dated 22.10.2018 challenging Repeal and Saving VAT Act. The Honourable High Court as per order No.34258/2018 dated 11.01.2019 dismissed the case. RR Authorities are given intimation to collect the amount. There after as per KVATA No.83/2019 dated 19.04.2021, the original assessment was modified vide office proceedings no.32091656804/2012-13 (Modified) dated 13.08.2021 demanding tax Rs.3,18,51,898/- and interest of Rs.3,21,70,417/-. Intimation given to RR authority to collect the amount.</p> <p><b><u>2014-15</u></b> Assessment completed on 14.08.2017 vide order no. 32091656804/2014-15 creating additional demand of Rs. 1,29,27,073/-. Further the assessment was rectified on 26.04.2018 in order to give credit for the amount remitted through return ,ie. E payment made by the dealer for Rs. 48,41,368/- . Hence as per rectified order the tax due reduced to Rs.53,81,668/- . There after as per KVATA No. 85/2019 Dtd: 19.04.2021, it is directed to modify the original assessment order after verifying the annual return along with the</p>

	<p>the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>audited statement regarding the dis allowance of sub contract turnover of Rs.66,53,232/-. The appellate authority has also uphold the addition of differential turnover of Rs. 16,28,20,794/-. On verification it is seen that, the claim of the assessee that they had wrongly shown the turnover as sub contract and has duly discharged the tax dues on Rs.66,53,232/- is true as it is revealed from the, Awarder statements, quarterly returns and Audited statements. The turnover of sub contract works shown in the Awarder statement for the periods June 2014-15, September 2014-15 and March 2014-15 are Rs.55,95,307/-, 1,95,580/- and 8,62,345/- respectively (Total Rs.66,53,232/- ). This amount was also shown in the Audited statements for the year 2014-15. From all these facts and from the payment particulars shown, it is clearly evidenced that the claim of the assessee that the tax due on the turnover has already been remitted is genuine and acceptable. Hence the addition of sub contract works not proved for Rs.66,53,232/- is dropped. According to this the original assessment was modified vide office proceedings no. 32091656804/2014-15 (Modified) dated 11.08.2021 demanding tax Rs.51,82,071/- and interest of Rs. 38,38,185/-. Intimation given to RR authority to collect the amount.</p>
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Para No.	Gist of the Case	Present Position								
2.5.3.1 Sl.No.47	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment</p>	<p><b><u>47. E.M. Shaji</u></b> <b><u>(32489030816)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Thrissur</u></b></p> <p>Sri. E.M Shaji is a registered dealer on the rolls of the Works Contract and Luxury Tax Office, Thrissur bearing TIN 32489030816. The dealer has conceded an amount of Rs.32,42,895/- as receipt from the Kerala State Construction Corporation in his return. During audit, the Accountant General pointed out that, the Kerala State Construction Corporation has shown sub contract payment of Rs.53,33,588/- to E. M Shaji. In order to rectify the defect, notice U/s 25(A) was issued to the dealer. A letter was also issued to the Kerala State Construction Corporation for the details of payment made to Sri.E.M Shaji during the year 2013-14. The books of account of the dealer were called for and verified.</p> <p>As per letter No.F1/VAT/558 dated 18.10.2016 of the Kerala State Construction Corporation Limited, Thiruvananthapuram furnished the following payment details of E.M.Shaji related to the year 2013-14:</p> <table><tr><th>Date of payment</th><th>Amount Paid</th></tr><tr><td>27.11.2013</td><td>18,79,575/-</td></tr><tr><td>17.03.2014</td><td>13,63,320/-</td></tr><tr><td><b>Total</b></td><td><b>32,42,895/-</b></td></tr></table> <p>As per the accounts of the dealer and the reply furnished by the Kerala State Construction Corporation, the total payment made to Sri.E. M Shaji by KSCC during the year 2013-14 was Rs.32,42,895/-. The Kerala State Construction Corporation had awarded the work to Sri.E.M Shaji and the payments are made after deducting tax. Form 20H was not issued from the Works Contract and Luxury Tax Office, Thrissur for Rs.</p>	Date of payment	Amount Paid	27.11.2013	18,79,575/-	17.03.2014	13,63,320/-	<b>Total</b>	<b>32,42,895/-</b>
Date of payment	Amount Paid									
27.11.2013	18,79,575/-									
17.03.2014	13,63,320/-									
<b>Total</b>	<b>32,42,895/-</b>									

	<p>circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>53,33,588/-. The Kerala State Construction Corporation had claimed irregular claim of exemption towards sub contract. But as far as the office of the Works Contract and Luxury Tax concern there is no escape in turnover in this case .</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.48</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>48. M/s. BBR (India) Ltd.</u></b> <b><u>(32011360942)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p>Assessment completed as per the order no.32011360942/2012-13 dated 05.12.2016 and creating the additional demand of 1.25 lakh. The amount is Under RR. (RR No. 408/17-18, dated 31.10.2017) – Dist.Collector(Other state).</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.49</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>49. Anil Kumar.G</u></b> <b><u>(32011375882)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p>Assessment completed as per the order no.32011375882/2014-15 dated 5.12.2016 and creating the additional demand of 1.06 lakhs. The amount is Under RR. (RR NO.2017/2882/01, dated 15.06.19 – Dist. Collector, Tvpm)</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.50</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment. In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>50. M/s. Cordial Foundation Pvt. Ltd.</u></b> <b><u>(32011359208)</u></b> <b><u>2012-13 &amp; 2013-14</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p><b><u>2012-13</u></b></p> <p>Assessment has been completed as per the order no. 32011340703/2012-13 dated 30.9.2015 and creating additional demand of 41.6 lakh. The dealer preferred appeal before DC (Appeal), the Appellate authority allowed the appeal and no demand is outstanding.</p> <p><b><u>2013-14</u></b></p> <p>The assessment has been completed as per the order no.32011340703/2013-14 dated 27.9.2016 and creating the additional demand of 59.05 lakh. The dealer preferred appeal before the DC (Appeals). The appellate authority directed to modify the assessment. Hence the original assessment is modified and the new demand comes to Rs. 12,470/-. (Tax:Rs.7,250/-, interest: Rs.5,220/-). The dealer opted amnesty 2020 and remitted Rs.2,900/- being 40% of tax vide chalan KL013185618202021E, dated 25.11.2020 and settled the dues.</p>



Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.51</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>51. M/s. Sumeru Constructions</u></b> <b><u>(32011315413)</u></b> <b><u>2014-15</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p>The assessment has been completed as per the order no.32011315413/2014-15 dated 21.8.2017 and creating an additional demand of 15.83 lakh. The dealer filed appeal before DC (Appeals) and the appellate authority directed to modify the original assessment. Hence the original assessment is modified vide order No. 32011315413/2014-15 dated 02.03.19 and the new demand arrived is Rs. 4,16,096/- (Tax:Rs.2,84,997/- and Interest:Rs.1,31,099/-). The dealer opted Amnesty 2021 and remitted Rs. 1,70,998.20/- being 50% of tax amount vide chalan No. KL018734304202122E dated 14.12.21 and settled the dues.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.52</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>52. M.P. Sadanandan</u></b> <b><u>(32011375397)</u></b> <b><u>2013-14 &amp; 2014-15</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p><b><u>2013-14</u></b> The STO, TPSC Kattakada reported that the assessment of the dealer has been completed as per the order No.32011375397 dated 29.11.2016 creating additional demand of Rs.4,96,850/-. The amount is under RR. The Dealer has not remitted the demand till date.</p> <p><b><u>2014-15</u></b> The assessment has been completed as per the order No. 32011375397 dated 29.11.2016 creating demand of Rs. 9,63,587/-. The amount is under RR. The Dealer has not remitted the demand till date.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.53</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>53. M/s. Anu Construction (Sri. K.Rajan)</u></b> <b><u>(32011355902)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC).</u></b> <b><u>Thiruvananthapuram</u></b></p> <p>The assessment has been completed as per the order no. 32011355902/2013-14 dated 28.1.2017 and creating additional demand of 8.15 lakh. The original assessment is modified as per the direction of the appellate authority and the new demand comes to 3.73 lakhs (TAX:2.63 lakhs, INTEREST: 1.09 lakhs). The dealer remitted an amount of Rs.44,000/-. Later opted Amnesty 2021 and paid Rs.87,909/- vide chalan No. KL021833247202021E dated 27.03.2021 and settled the dues.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.54</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>54. M/s. Cordial Company</u></b> <b><u>(32011316245)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p>The assessment has been completed as per the order No. 32011316245/2013-14 dated 13.6.2017 and creating the additional demand of 1.54 lakh. The dealer opted amnesty 2020 and remitted Rs.44,921.60/- vide chalan No.KL013323228202021E dated 28.01.2020 and settled the dues.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.55</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>55. M/s. Decor Delight</u></b> <b><u>(32011355454)</u></b> <b><u>2013-14 &amp; 2014-15</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p>In Audit Objection the TIN mentioned against the dealer is 32011355454. But the correct TIN is 32011355452.</p> <p><b><u>2013-14</u></b></p> <p>The assessment has been completed as per the order no.32011355452/2013-14 dated 28.1.2017 and creating the additional demand of 5.60 lakh. The amount is Under RR.</p> <p><b><u>2014-15</u></b></p> <p>The assessment has been completed as per the order no.32011355452/2013-14 dated 28.1.2017 and creating additional demand of 1.53 lakh. The amount is Under RR.</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.1 Sl.No.56</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>56. M/s. Falcon Interiors</u></b>  <b><u>(32011369547)</u></b>  <b><u>2013-14 &amp; 2014-15</u></b>  <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p><b><u>2013-14</u></b>  The assessment has been completed as per the order no.32011369547/2013-14 dated 14.12.2016 and creating the additional demand of 5.35 lakh. (Tax:Rs.1,60,953/-, Interest: Rs.53,114./-, penalty: Rs.3,21,906/-). The dealer opted amnesty 2019 and remitted Rs.1,60,953/- being 100% of tax and settled the dues.</p> <p><b><u>2014-15</u></b>  The assessment has been completed as per the order no.32011369547/2014-15 dated 15.12.2016 and creating the additional demand of 3.89 lakh. The amount is Under RR.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.57</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>57. M/s. Flytech Industries (Babu P L)</u></b> <b><u>(32011359208)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p>In Audit Objection the TIN mentioned against the dealer is 32011359208 but the correct TIN is 32011306299.</p> <p>The assessment has been completed as per the order no.32011306299/2013-14 dated 14.12.2016 and creating additional demand of 1.52 lakh, including penalty. The dealer has paid 0.6. Stayed till the disposal of appeal subject to condition that the appellant should remit 20% of disputed amount. The appellate authority, DC(Appeals) dismissed the appeal. The assessee has remitted the entire tax and interest Rs.60,796/- vide chalan No.KL004701663201617 dated 16.01.17.</p> <p>Penalty Rs 91,422/- settled under the Amnesty Scheme 2019-2020</p>

Para No.	Gist of the Case	Present Position								
2.5.3.1 Sl.No.58	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return.</p> <p>Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the</p>	<p><b><u>58. A. Shaji</u></b> <b><u>(32011318181)</u></b> <b><u>2012-13 to 2014-15</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p><b><u>2012-13</u></b> The assessment has been completed creating additional demand of Tax: Rs.1,75,752/-, Interest: Rs.93,148/-.</p> <p><b><u>2013-14</u></b> The short levy pointed out by AG for the year 2013-14 was Rs.3.72 Lakhs. The assessment has been completed creating additional demand of Tax:Rs.78,460/-, Interest:Rs.27,461/-.</p> <p>As per the original notice under section 25(1) issued to the dealer suppression pointed out was Rs.26 crore and short levy of tax pointed out was Rs.3.72 Lakhs as under:</p> <table><tr><td>Turnover escaped assessment for 2013-14</td><td>Rs.34,18,226.00</td></tr><tr><td>Less: Labour component as per Rule 10 (2) (b)</td><td>Rs.8,54,556.00</td></tr><tr><td>Balance taxable turnover escaped assessment</td><td>Rs.25,63,670.00</td></tr><tr><td>Tax due @ 14.5%</td><td>Rs.3,71,732.00</td></tr></table> <p>Interest will be levied as per rule.</p> <p>The dealer filed reply to the notice with objection to the proposal and filed Revision Petition (Order No.53/2016 dated 16.08.2016) to the Deputy Commissioner, Thiruvananthapuram against the penalty Order No.CR.3/2016-17/B1/I0 dated 07.05.2016 of the Intelligence Officer (IB), Thiruvananthapuram.</p>	Turnover escaped assessment for 2013-14	Rs.34,18,226.00	Less: Labour component as per Rule 10 (2) (b)	Rs.8,54,556.00	Balance taxable turnover escaped assessment	Rs.25,63,670.00	Tax due @ 14.5%	Rs.3,71,732.00
Turnover escaped assessment for 2013-14	Rs.34,18,226.00									
Less: Labour component as per Rule 10 (2) (b)	Rs.8,54,556.00									
Balance taxable turnover escaped assessment	Rs.25,63,670.00									
Tax due @ 14.5%	Rs.3,71,732.00									



	<p>awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/ principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>The Investigation Wing of the Commercial Taxes Department, Thiruvananthapuram inspected the business place of M/s. Heera Construction Company (P) Ltd and collected the details of sub - contractors. The assessee is one of the sub-contractors doing the interior work. Details of work contract receipt of the assessee for the year 2013-14 was recovered from Heera Construction Company (P) ltd. Subsequently the Intelligence Officer imposed penalty of Rs.7,43,464/- for the year 2013-14.</p> <p>Aggrieved by this order the dealer filed revision. After the verification of the Books of Accounts, Profit and Loss Account and Balance Sheet for the period 2013-14 along with the purchase bill, the Deputy Commissioner, Thiruvananthapuram reduced the total penalty to Rs.1,86,305/- with turnover arrived as per the calculations of transfer value of taxable goods involved Rs.13,77,429/- for 2013-14. In order to comply the order of Deputy Commissioner, Thiruvananthapuram and in order to make good to assess the escaped turnover, the assessing authority was constrained to complete the assessment for the year 2013-14 as under:</p> <p>Total taxable turnover arrived by the Deputy Commissioner, Tvpm as per the calculations of transfer value of taxable goods in the execution of work.</p> <p style="text-align: right;">:Rs.13,77,429.00</p> <p>Tax due @ 14.5%</p> <p style="text-align: right;">:Rs.1,99,727.00</p> <p>Input tax credit eligible as per the Order of Deputy Commissioner, Tvpm</p> <p style="text-align: right;">:Rs.1,21,267.00</p> <p>Balance tax due</p> <p style="text-align: right;">:Rs.78,460.00</p> <p>Interest due @ 35%</p> <p style="text-align: right;">:Rs.27,461.00</p> <p>Total due : Rs.1,05,921.00</p> <p><b><u>2014-15</u></b></p> <p>The short levy pointed out by AG for the year 2014-15 was</p>
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		<p>Rs.2.22 lakhs. The assessment has been completed creating additional demand of Tax: Rs.51,012/-, Interest: Rs.11,733/-.</p> <p>As per the original notice under section 25(1) issued, suppression pointed out was Rs. .15 crore and short levy of tax pointed out was Rs.2.22 Lakhs as under:</p> <p>Turnover escaped assessment for 2014-15 Rs.20,38,884.00</p> <p>Less: Labour component as per Rule 10 (2) (b) Rs.5,09,721.00</p> <p>Balance taxable turnover escaped assessment Rs.15,29,163.00</p> <p>Tax due @ 14.5% Rs.2,21,729.00</p> <p>Interest will be levied as per rule.</p> <p>The dealer filed reply to the notice with objections to the proposal and also filed Revision Petition (Order No.53/2016 dated 16.08.2016) to the Deputy Commissioner, Thiruvananthapuram as against the penalty Order No. CR.3/2016-17/B1/I0 dated 07.05.2016 of the Intelligence Officer (IB), Thiruvananthapuram.</p> <p>The Investigation Wing of the Department inspected the business place of M/s. Heera Construction Company (P) Ltd and collected the details of sub - contractors. The assessee is one of the sub-contractors doing the interior work. Details of work contract receipt of the assessee for the year 2014-15 was recovered from Heera Construction Company (P) Ltd. Subsequently the Intelligence Officer imposed penalty of Rs.9,68,728/- for the year 2014-15.</p> <p>Aggrieved by this order the dealer filed revision. After the verification of the Books of Accounts, Profit and Loss Account and Balance Sheet for the period 2014-15 along with the purchase bill, the Deputy Commissioner, Thiruvananthapuram reduced the total</p>
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	<p>penalty to Rs.78,460/- with turnover arrived as per the calculations of transfer value of taxable goods involved Rs.4,17,620/- for 2014-15. In order to comply the order of Deputy Commissioner, Thiruvananthapuram and in order to make good to assess the escaped turnover, the assessing authority is constrained to complete the assessment for the year 2014-15 as follows.</p> <p>Total taxable turnover arrived by the Deputy Commissioner, Tvpm as per the calculations of transfer value of taxable goods in the execution of work.</p> <p style="text-align: right;">:Rs.4,17,620.00</p> <p>Tax due @ 14.5%</p> <p style="text-align: right;">:Rs.60,555.00</p> <p>Input tax credit eligible as per the Order of Deputy Commissioner, Tvpm</p> <p style="text-align: right;">:Rs.9,543.00</p> <p>Balance tax due</p> <p style="text-align: right;">:Rs.51,012.00</p> <p>Interest due @ 35%</p> <p style="text-align: right;">:Rs.11,733.00</p> <p>Total due : Rs.62,745.00</p> <p>The dealer remitted Rs.28,246/- and for the rest of amount the dealer opted amnesty 2020 and remitted Rs.1,03,444/- being 40% of tax Vide chalan No.KL013952676202021E, dated 07.02.2020 and settled the dues.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.59</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>59. Albert Raj</u></b> <b><u>(32011385815)</u></b> <b><u>2010-11 to 2014-15</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p><b><u>2010-11</u></b> The assessment has been completed as per the order no.32011385815/2010-11 dated 25.06.2016 and creating additional demand of 28.17 lakh. The amount is under RR(RR No. 16/14298/01 dated 23.08.2016).</p> <p><b><u>2011-12</u></b> The assessment has been completed as per the order no.32011385815/2011-12 dated 25.06.2016 and creating additional demand of 31.89 lakh. The amount is under RR(RR No. 16/14301/01 dated 23.08.2016).</p> <p><b><u>2012-13</u></b> The assessment has been completed as per the order no.32011385815/2011-12 dated 25.06.2016 and creating additional demand of 96.74 lakh. The amount is under RR(RR No. 16/14303/01 dated 23.08.2016).</p> <p><b><u>2013-14</u></b> The assessment has been completed as per the order no.32011385815/2013-14 dated 12.01.2018 and creating additional demand of 6.57 lakh. The amount is under RR(RR No. 564/2017-18 dated 23.02.2018).</p> <p><b><u>2014-15</u></b> Sri. Albert Raj received sub contract only from M/s.Heera Construction company private Ltd, and for the year 2010-11, 2011-12 and 2012-13. The assessment for those periods were completed by including the</p>

		<p>amount covered in form 20H certificate issued from that office. The assessee had not any form 20H for the year 2014-15. Further verification of the assessment records in respect of M/s. Heera Construction Company, it revealed that there was no exemption allowed under sub-contract in the strength of form 20H in respect of Sri. Albert Raj. Hence there is no escaped turnover to assess for the year 2014-15.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.60</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>60. Gopinathan Nair</u></b> <b><u>(32011371909)</u></b> <b><u>2010-11 to 2012-13</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p><b><u>2010-11</u></b> The assessment has been completed as per the order no.32011371909/2010-11 dated 20.01.2016 and creating the additional demand of 14.06 lakh. The dealer filed rectification petition before the Deputy Commissioner, Tvp. The revision authority directed to reduce the penalty to Rs.10,000/-. Hence the original order is modified by reducing the penalty to Rs.10,000/-. The demand is under RR (RR No.2018/661/01 dated 22.01.2018).</p> <p><b><u>2011-12</u></b> The assessment has been completed as per the order no.32011371909/2011-12 dated 20.01.2016 and creating the additional demand of 20.64 lakh. The amount is under RR.</p> <p><b><u>2012-13</u></b> The assessment has been completed as per the order no.32011371909/2012-13 dated 20.01.2016 and creating the additional demand of 38.64 lakh. The amount is under RR.</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.1 Sl.No.61</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>61. G.S.Builders &amp; Contractors Pvt. Ltd.</u></b>  <b><u>(32011334482)</u></b>  <b><u>2011-12 &amp; 2012-13</u></b>  <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p><b><u>2011-12</u></b>  The assessment has been completed as per the order no.32011334482//2011-12 dated 24-03-2017 and creating the additional demand of 17.81 lakh. The amount is under RR (IAC, Tvm).</p> <p><b><u>2012-13</u></b>  The assessment has been completed as per the order no.32011334482//2012-13 dated 24-03-2017 and creating the additional demand of 37.4 lakh. The amount is under RR.</p>

Para No.	Gist of the Case	Present Position
2.5.3.1 Sl.No.62	Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the	<p align="center"><b><u>62. GKR Associates</u></b>  <b><u>(32011319057)</u></b>  <b><u>2010-11 to 2012-13</u></b>  <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p><b><u>2010-11</u></b>  The assessment for the year 2010-11 has been completed as per Order No.32011319057/2010-11 dated. 27.02.2016 creating the demand of Tax and cess due Rs.7,80,151/- and interest up to 01/2016 Rs.4,60,289/-. The assessee filed appeal before the Deputy Commissioner (Appeals), Thiruvananthapuram and as per Order No. KVATA no.406/16 dated.30.09.2016, the Appellate Authority directed the assessing authority to verify all connected records including work order and modify the assessment. As the dealer did not produce any books of accounts, the assessing authority modified the assessment as per order No.32011319057/2010-11(Modified) dated.28.05.2017, adhearing the original assessment with the demand of Tax &amp; cess Rs.7,80,151/- and interest up to 05/17 Rs.4,83,694/-.</p> <p>Difference in the interest amount is due to - in the original assessment order interest is calculated up to 01/2016 and in the modified order up to 05/17. The original Order date is 27.02.2016 and modified order date is 28.05.2017.</p> <p><b><u>2011-12</u></b>  The assessment for the year 2011-12 has been completed as per Order No.32011319057/2011-12 dated.27.02.2016 creating the demand of Tax and cess due Rs.3,40,735/- and interest up to 01/2016 Rs.1,60,145/-. The assessee filed appeal before the Deputy Commissioner(Appeals), Thiruvananthapuram and as per Order No.KVATA no.407/16 dated.30.09.2016, the Appellate Authority</p>



<p>sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/ principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>directed the assessing authority to verify all connected records including work order and modify the assessment. As the dealer did not produce any books of accounts, the assessing authority modified the assessment as per order No.32011319057/2011-12 (Modified) dated.28.05.2017, adhering the original assessment with the demand of Tax &amp; cess Rs.3,40,735/- and interest up to 05/17 Rs.2,11,256/-.</p> <p>Difference in the interest amount is due to - in the original assessment order interest is calculated up to 01/2016 and in the modified order up to 05/17. The original Order date is 27.02.2016 and modified order date is 28.05.2017.</p> <p><b><u>2012-13</u></b></p> <p>The assessment for the year 2012-13 has been completed as per Order No.32011319057/2012-13 dated. 27.02.2016 creating the demand of Tax due Rs.48,303/- and interest up to 02/2016 Rs.16,906/-. The assessee filed appeal before the Deputy Commissioner (Appeals), Thiruvananthapuram and as per Order No.KVATA No.408/16 dated.30.09.2016, the Appellate Authority directed the assessing authority to verify all connected records including work order and modify the assessment. As the dealer did not produce any books of accounts, the assessing authority modified the assessment as per order No.32011319057/2012-13 (Modified) dated.28.05.2017, adhering the original assessment with the demand of Tax Rs.48,303/- and interest up to 05/17 Rs.24,151/-.</p> <p>Difference in the interest amount is due to - in the original assessment order interest is calculated up to 02/2016 and in the modified order up to 05/17. The original Order date is 27.02.2016 and modified order date is 28.05.2017.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.63</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>63. M/s. Marvel Floorings</u></b> <b><u>(32011324727)</u></b> <b><u>2010-11 to 2012-13</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p><b><u>2010-11</u></b> The assessment has been completed as per the order no.32011324727/2010-11 dated 28-07-2015 and creating the additional demand of 0.66 lakh. The amount is under RR.</p> <p><b><u>2011-12</u></b> The assessment has been completed as per the order no.32011324727/2011-12 dated 28-07-2015 and creating the additional demand of 5.54 lakh. The amount is under RR.</p> <p><b><u>2012-13</u></b> The assessment has been completed as per the order no.32011324727/2012-13 dated 28-07-2015 and creating the additional demand of 15.04 lakh. The amount is under RR.</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.1</b> <b>Sl.No.64</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>64. Cynosure Power Systems</u></b>  <b><u>(32011360154)</u></b>  <b><u>2011-12 &amp; 2012-13</u></b>  <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p><b><u>2011-12</u></b></p> <p>The assessment has been completed as per the order no. 32011360154/2011-12 dated 02-06-2015 and creating the additional demand of 1.1 lakh. The amount is under RR.</p> <p><b><u>2012-13</u></b></p> <p>The assessment has been completed as per the order no.32011360154/2012-13 dated 02-06-2015 and creating the additional demand of 5.51 lakh. Aggrieved by the order the dealer preferred appeal before Deputy Commissioner(Appeals) and the appellate authority directed to modify the original assessment. Hence the original assessment is modified and the demand became 'NIL'.</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.1</b> <b>Sl.No.65</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>65. M/s. Aqua Designa India Pvt. Ltd.</u></b>  <b><u>(32011362922)</u></b>  <b><u>CTO(WC),</u></b>  <b><u>Thiruvananthapuram</u></b></p> <p>The assessment has been completed as per the order no.32011362922/13-14 dated 20-01-2017 and creating the additional demand of 14.45 lakh. The amount is under RR(other state).</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.66</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>66. Basic Engineering System</u></b> <b><u>(32011361368)</u></b> <b><u>2014-15</u></b> <b><u>CTO(WC).</u></b> <b><u>Thiruvananthapuram</u></b></p> <p>The assessment has been completed as per the order no.32011361368/2014-15 dated 18-02-2017 and the demand became 'NIL'.</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.1</b> <b>Sl.No.67</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement on-line in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>67. M/s. Zion Glass Land (George &amp; Mini)</u></b>  <b><u>(32010845782)</u></b>  <b><u>2013-14</u></b>  <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p>The assessment has been completed on 12-07-2019 and creating additional demand of Rs.2,87,000/-. The dealer had opted amnesty scheme.</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.1</b> <b>Sl.No.68</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p><b><u>68. Sri.G.Santosh Kumar</u></b>  <b><u>(32010836837)</u></b>  <b><u>2013-14</u></b>  <b><u>CTO, III Circle,</u></b>  <b><u>Thiruvananthapuram</u></b></p> <p>Assessment completed on 08-04-2022 creating additional demand of Rs.1,49,790/- as tax, Rs.1,45,296/- as interest and Rs.2,99,580/- as penalty.</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.1 Sl.No.69</b>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97</p>	<p><b><u>69. T.A Abdul Rehman</u></b> <b><u>(32220411304)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Kasargod</u></b></p> <p>The irregularities pointed out in the above para is that 71 assesseees who take sub contract, including one assessee on the rolls of this office had failed to return the contract receipt from 97 awarders/principle contractors fully, which resulted escape turnover and consequent short levy of tax, interest and penalty of Rs.26.37 crore.</p> <p>In respect of one assessee mentioned in the rolls of this office is Sri.Abdul Rahiman.T.A., Jasmine House, Chattanchal(PO), Kasargod bearing TIN:32220411304. The Accountant General as per compliance audit preliminary objection memo No. KSGD 01 dated 21-07-2016 pointed out that M/s. Kerala State Construction Corporation Ltd., bearing TIN: 32072082322, an assessee born on the rolls of Commercial Tax Officer(Works Contract), Ernakulam shown payment of Rs.23,28,76,477/- of contract amount to the assessee as per awarders statement for the year 2013-14. But the assessee had conceded only Rs.18,76,49,980/- of payment from Kerala State Construction Corporation Ltd. Thus the assessee had under reported turnover of Rs. 4,52,26,497/- from the above awarders during 2013-14, which resulted short levy of tax and interest and penalty amounting to Rs. 27.13 Lakhs.</p> <p>In the light of audit report the assessing authority has completed the assessment in respect of the dealer for the year 2013- 14 U/s.25(1) of the KVAT Act creating additional demand of Rs.13,52,408/-, Rs.2,97,530/- and Rs.5,000/- towards tax, interest and penalty respectively, assessing the entire turnover of Rs.36,32,96,039/- including the contract payment from KSCC Ltd., for Rs.23,28,76,477/- and Rs.13,04,19,562/- of contract receipt from</p>



	<p>awarders/principal contractors and noticed that 71 sub-contractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>Government work. Since the dealer is compounded U/s. 8a(ii) of the KVAT Act for the year 2013-14. The turnover of contract receipt from Government Work is assessed @ 4% and others assessed @ 3% after deducting the purchase value of interstate purchase/stock transfer from outside state effected by the dealer. The above turnover of interstate purchase &amp; Stock transfer out was assessed at scheduled rate. Aggrieved by the order filed first appeal before the Deputy Commissioner (Appeal) Kozhikode and the same was dismissed by the appellate authority vide order in VATA No. 915/16 dated 22-04-2017.</p> <p>At present the demand is advised under revenue recovery proceedings before the revenue authorities for collection. Revenue authority collected Rs. 11,67,368/- towards tax Rs.7,71,649/- and interest Rs. 3,75,719/-, the dealer opted under amnesty scheme 2021 for the balance amount and paid 3 installment for Rs.25,906/- as per ch. No. KL020133970202122E dated 29-12-2021, paid Rs.25,906/- as per ch. No.KL025636738202122E dated 07-03-2022 and Rs.25,906/- as per ch. No. KL026992690202122E dated 25-03-2022. The dealer not fulfilled the conditions on the payment under the amnesty scheme 2021. The dealer opted Amnesty Scheme 2022 for the balance amount and paid Rs.64393/-being the 60% of the tax vide Challan No.KL024702911202223E Dtd 29.12.2022 and settled the dues.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.5.3.1</b> <b>Sl.No.70</b></p>	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-contractors in the following assess-</p>	<p><b><u>70. City Aluminium Fabricator</u></b> <b><u>(32150614634)</u></b> <b><u>2014-15</u></b> <b><u>CTO, II Circle, Mattancherry</u></b></p> <p>M/s. City Aluminium Fabricators, Kuruvelipay, Cochin is a registered dealer borne on the rolls of the State Tax Officer, 2<sup>nd</sup> Circle, Mattancherry. In connection with the audit objection, the assessing authority issued summons in form No 17 for production of books of accounts. On receipt of the notice, the assessee produced books of accounts and all quarterly returns during the year 2014-15. On verification of the same with the KVATIS details, the assessing authority found that the assessee had filed quarterly returns for the period from 01-04-2014 to 31-03-2015 and also filed annual return. The assessee explained that they had already filed III<sup>rd</sup> quarter return in time. But due to certain mistakes occurred in the 3<sup>rd</sup> quarter return, the assessee himself initiated return revision for 3<sup>rd</sup> quarter. Hence that return was not seen in KVATIS details. Later the assessee resubmitted the 3<sup>rd</sup> quarter return and also filed 4<sup>th</sup> quarter and annual return. As per return and accounts, the assessee has effected contract receipt from M/s. Abad Builders (P) Ltd TIN 32072098072 as follows.</p> <p><b><u>I<sup>st</sup> quarter</u></b> M/s. Abad Builders Pvt. Ltd. Work order No ABPL/WO/SB/31/13-14  :Rs. 1,17,076.00/-</p> <p><b><u>II<sup>nd</sup> quarter</u></b> 1. M/s. Abad Builders Pvt Ltd as per work order No ABPL/WO/NCLS/314/2014-15 :Rs.2,99,980.00/- 2.M/s. Abad Builders Pvt. Ltd.</p>

	<p>ment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>:Rs. 16,766.00/-</p> <p>3.M/s.Abad Builders Pvt. Ltd Work order No.ABPL/WO/SB/41/2014-15</p> <p>:Rs.3,52,583.00/-</p> <p>4.M/s. Abad Builders Pvt. Ltd. Work Order No. ABPL/WO/SM/21/2013-14</p> <p>:Rs. 5,70,554.50/-</p> <p>-----</p> <p><b>TOTAL : Rs. 12,39,883/-</b></p> <p><b><u>III<sup>rd</sup> quarter</u></b></p> <p>1.ABPL/WO/ST/35/14-15</p> <p>:Rs. 6,81,756.30/-</p> <p>2.ABPL/WO/SD/34/14-15</p> <p>:Rs. 12,05,387.55/-</p> <p>3.ABPL/WO/ST/35/14-15</p> <p>:Rs. 4,29,796.34/-</p> <p>4.ABPL</p> <p>:Rs. 22,400.00/-</p> <p>5.ABPL</p> <p>:Rs. 42,694.24/-</p> <p>6.ABPL</p> <p>:Rs.82,002.17/-</p> <p>-----</p> <p><b>TOTAL :Rs. 24,64,036.36/-</b></p> <p><b><u>IV<sup>th</sup> quarter</u></b></p> <p>1.M/s. ABPL/WO/SD/34/14-15</p> <p>:Rs. 9,23,993.88/-</p> <p>2.M/s. ABPL/WO/SD/34/14-15</p> <p>:Rs. 6,70,013.01/-</p> <p>3.M/s. ABPL/WO/ST/55/14-15</p> <p>:Rs. 2,75,416.86/-</p> <p>4.M/s. ABPL/WO/SD/34/14-15</p> <p>:Rs. 6,92,427.96/-</p> <p>5.M/s. ABPL/WO/SB/31/13-14</p> <p>:Rs. 97,293.00/-</p> <p>6.M/s. ABPL/WO/SM/21/13-14</p> <p>:Rs. 2,12,550.00/-</p>
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		<b>TOTAL</b> :Rs. 28,71,694.71/-  <b>Grand total</b> :Rs. 66,92,691.00/-  <p>Total contract receipt effected from M/s. Abad Builders (P) Ltd is Rs.66,92,691.00/- and the entire amount suffered TDS. The Accountant General pointed out the amount Rs.63,99,896/- only. No irregularities noticed in this case. In the circumstances, the audit objection pointed out may please be dropped.</p>
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Para No.	Gist of the Case	Present Position
2.5.3.1 Sl.No.71	<p>Under Section 21 of the KVAT Act, 2003 where the return submitted by the assessee is in the prescribed manner, the assessment relating to the return period shall be deemed to have been completed on the receipt of such return. Under the Act, where a portion of the work is sub-contracted to a registered dealer, the turnover of the principal contractor/awarder shall not include the amount paid to the sub-contractors, provided the contractor claiming such deduction, in respect of sub contracted amount furnishes certificate in Form No 20-H. When a work is sub-contracted, the principal contractor/awarder has to file awarders statement online in Form No. 10-C. But the awarders statement is not linked with the work of sub-contractors. Hence, if the sub-contractor fails to Return full contract receipts from the awarders or partially disclose the receipts in their annual returns, the assessing authorities of the sub-contractors are unable to detect the turnover escaped assessment.</p> <p>In four assessment circles, Audit cross checked the sub contract payments made by the 97 awarders/principal contractors and noticed that 71 sub-con-</p>	<p><b><u>71. Mohammad Aslam</u></b> <b><u>(32061508885)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Idukki</u></b></p> <p>Based on the audit objection, notice under section 25(1) dated 17-10-2016 was issued to the assessee proposing to assess the escaped turnover to best judgment. On receipt of the notice, the assessee filed objection and also produced TDS Certificate in Form 20F along with the Audited Report in Form 13 &amp; 13A duly verified and signed by the Chartered Accountant. Since the tax has been deducted at Source and remitted to Government by the Principal Contractor then and there, there is no escape of tax. The Principal Contractor issued statutory Form No. 20F showing the amount of tax deducted at Source. On verification of Form No.20F, it was found that the amount involved in the contract is Rs.1,59,36,293/- only as against Rs.1,64,36,293/- detected by the Accountant General. Hence another notice dated 16-05-2017 has been issued to the assessee proposing to assess the difference of turnover of Rs.5,00,000/- which is treated as escaped turnover.</p> <p>The escaped turnover of Rs.5,00,000/- has been added by 20% for probable omission and suppression and thus estimated suppressed turnover of Rs.6,00,000/- has been assessed @14.5% as per order no.32061508885/2013-14 dated 20-06-2017 creating additional demand of Rs.87,000/- and interest due on the tax. The amount was advised for RR to Assistant Commissioner vide RRC No.11/2017-18 dated 23-10-2017. The assessee remitted 20% of the tax due and filed appeal before the first appellate authority.</p> <p>In addition to the above order, a penalty of Rs.1,45,000/-, being double the tax due on the actual suppressed turnover of Rs.5,00,000/-, has also been</p>

<p>tractors in the following assessment circles, failed to return the contract receipts fully, which resulted in escape of turnover and consequent short levy of tax, interest and penalty of 26.37 crore.</p>	<p>imposed upon the assessee as per order no.32061508885/2013-14 dated 20-06-2017. Aggrieved by the order of assessment and imposition of penalty the dealer filed appeal/revision before D.C(Appeals) Kottayam. As a result the D.C(Appeals) vide order KVATA No.461/2017(2013-14) directed the assessing authority to modify the assessment and accordingly the assessment for the year 2013-14 has been modified with a demand of Rs.15,000/-. The above demand has been adjusted from the amount remitted vide Challan No.KL004867302201819M dated 06-08-2018 for Rs.17,400/-. As per order No.RP No. 31/2017(2013-14) the D.C(Appeals) reduced the quantum of penalty from the double the amount of tax evaded to equal amount of tax evaded. Thus the penalty refixed to Rs.15,000/- and the dealer opted Amnesty Scheme 2020 on 30-07-2020 vide application reference No AM3207200110431. The penalty outstanding was waived off as stipulated as per the provision of Amnesty scheme. Since the revised demand arised out of the proceedings pursuant to the above objection have already been settled by the dealer, it is requested that the para in this regard may be dropped.</p>
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## Para 2.5.3.2

Para No.	Gist of the Case	Present Position
2.5.3.2 Sl.No.1	Rule 9(2)(A) of the KVAT Rules, 2005, stipulates that, where, in a works contract, the awarder supplies a portion of the goods involved in the execution of works contract and deducts the value of the material from the payment made to the contractor, the turnover of the goods so supplied shall form part of the total turnover of the awarder as well as the contractor. Out of ten cases checked, in three cases, the awarder had transferred the goods to the sub-contractors to incorporate into the work. But, neither the awarder (M/s Kerala State Construction Corporation Limited) nor the sub-contractors (M/s Greenworth Infrastructures Private Limited and Manuel Joseph) conceded the value of goods so supplied in their annual return. The Returns were being uploaded by the dealers themselves in KVATIS. Audit found that no proper mechanism existed to detect such a lapse. This resulted in short levy of tax, interest and penalty amounting to 96.53 lakh.	<p><b><u>1. M/s Kerala State Construction Corporation Ltd.</u></b>  <b><u>(32072082322)</u></b>  <b><u>2012-13</u></b>  <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed vide order no.32072082322/2012-13 dated 28.3.2019. Additional demand created Rs.25,15,11,744.00. WPC No. 21188/2019 is pending in the Hon'ble HC of Kerala.</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.2 Sl.No.2</b>	<p>Rule 9(2)(A) of the KVAT Rules, 2005, stipulates that, where, in a works contract, the awarder supplies a portion of the goods involved in the execution of works contract and deducts the value of the material from the payment made to the contractor, the turnover of the goods so supplied shall form part of the total turnover of the awarder as well as the contractor. Out of ten cases checked, in three cases, the awarder had transferred the goods to the sub-contractors to incorporate into the work. But, neither the awarder (M/s Kerala State Construction Corporation Limited) nor the sub-contractors (M/s Greenworth Infrastructures Private Limited and Manuel Joseph) conceded the value of goods so supplied in their annual return. The Returns were being uploaded by the dealers themselves in KVATIS. Audit found that no proper mechanism existed to detect such a lapse. This resulted in short levy of tax, interest and penalty amounting to 96.53 lakh.</p>	<p><b><u>2. M/s Greenworth Infrastructures Pvt Ltd.</u></b>  <b><u>(32072097341)</u></b>  <b><u>2012-13</u></b>  <b><u>CTO(WC), Ernakulam</u></b></p> <p>The dealer was issued a notice in accordance with the audit objection raised in the POM and he filed reply stating that all the contract receipts from M/s. Kerala State Construction Corporation Ltd has been duly conceded in the return. It is understood that the variation in the figures conceded in the returns and 13 &amp; 13A with that reflected in the statement of sub-contract payment received from M/s Kerala State Construction corporation is due to the accounting standard maintained by the dealer. Accordingly the amount shown as contract receipt is the actual bills raised during the year whereas the sub-contract payment received may pertain to other years also. Since no irregularity is there.</p>



Para No.	Gist of the Case	Present Position
2.5.3.2 Sl.No.3	<p>Rule 9(2)(A) of the KVAT Rules, 2005, stipulates that, where, in a works contract, the awarder supplies a portion of the goods involved in the execution of works contract and deducts the value of the material from the payment made to the contractor, the turnover of the goods so supplied shall form part of the total turnover of the awarder as well as the contractor. Out of ten cases checked, in three cases, the awarder had transferred the goods to the sub-contractors to incorporate into the work. But, neither the awarder (M/s Kerala State Construction Corporation Limited) nor the sub-contractors (M/s Greenworth Infrastructures Private Limited and Manuel Joseph) conceded the value of goods so supplied in their annual return. The Returns were being uploaded by the dealers themselves in KVATIS. Audit found that no proper mechanism existed to detect such a lapse. This resulted in short levy of tax, interest and penalty amounting to 96.53 lakh.</p>	<p><b><u>3. Manuel Joseph</u></b> <b><u>(32592641212)</u></b> <b><u>2012-13 &amp; 2013-14</u></b> <b><u>CTO (WC), Kannur</u></b></p> <p><b><u>2012-13</u></b></p> <p>Sri. Manual Joseph is a registered dealer under KVAT Act, 2003 as a work contractor with TIN-32592641212. The dealer opted for compounding scheme for payment of tax for the year 2012-13 @3%.</p> <p>Sri. Manual Joseph filed quarterly return for the period from 01.01.2013 to 31.03.2013, taxable turnover Rs. 88,37,618/- with output tax due Rs. 2,65,128.54. An amount of Rs. 2,70,612/- has been deducted as TDS from Manual Joseph. The dealer filed annual return for the year 01.04.2012 to 31.03.2013 with the same details. As per the annual return the dealer was liable to pay output tax Rs. 2,65,129/- and the same has been remitted by adjusting from the TDS deducted from him. For the year 2012-13, the dealer has an excess credit of Rs. 5,492/- after adjusting output tax due.</p> <p>The dealer has furnished Form No. 20F issued by Executive Engineer, PWD Roads Division, Kannur in order to prove the work awarded and payment made to him. The dealer has filed audited statements of accounts in Form 13 &amp; 13A for the year 2012-13. On Scrutiny of the audited statement, the dealer was assessed for the year 2012-13 and tax due determined as Rs. 4,59,180/- and demand notice issued for balance amount Rs. 1,88,559/- along with interest Rs. 24,513/- .</p> <p>The taxable person has filed appeal before the Deputy Commissioner (Appeals), Commercial</p>

		<p>Taxes, Kozhikode against the above order. The appellate authority ordered to modify the order already issued for the year 2012-13 .</p> <p>The taxable person has produced a letter from the Executive Engineer in which it stated that “the work removal of boulders, wooden loges and seating of well foundation etc. was executed by the department directly on there was no such item proposed in the agreement. The estimate of the removal of obstacles was proposal without adding contractor profit and this was executed through the contractor separately and is not a part of contract. As such no VAT was recovered from this since it includes only the actual cost of engagement on machinery and labours”.</p> <p>As per the Order No. 32592641212/2012-13, dated 14.09.2015 of Commercial Tax Officer, (Works Contract), Kannur the assessment order was modified as ordered by appellate authority. The dealer has remitted the entire tax due liable to pay by him and he has an excess credit of Rs. 71,110/-.</p> <p>Hence Sri. Manual Joseph a government contractor had conceded the total contract amount Rs. 88,37,618/- in the annual return for the year 2012-13 and paid the tax Rs. 2,65,129/- for the year 2012-13 by way of TDS. The cost of materials supplied by the department is included in the gross contract amount and tax for this amount has been deducted by the PWD department.</p> <p>In the above circumstances, the defect may kindly be dropped.</p> <p><b><u>2013-14</u></b></p> <p>As per the annual return, audited statements of accounts in Form 13 &amp; 13A and other relevant records produced by Sri. Manual Joseph, government contractor, he had conceded the total</p>
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		<p>contract amount Rs. Rs. 2,16,13,293/- for the year 2013-14 and paid the tax Rs. 6,48,399/- by way of TDS. The cost of materials supplied by the department is included in the gross contract amount and tax for this amount has been deducted by the PWD department.</p> <p>In the above circumstances, the defect may kindly be dropped.</p>
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**Para 2.5.3.3**

<b>Para No.</b>	<b>Gist of the Case</b>	<b>Present Position</b>
<b>2.5.3.3 Sl.No.1</b>	<p>Under the KVAT Act, 2003 in the case of transfer of goods involved in the execution of works contract, where transfer is in the form of goods, the liability for tax shall be at the rate specified for such goods. Works contract involving fabrication, supply and installation of UPVC /aluminium doors and windows would come under the category of transfer of materials in the form of goods, which would attract levy of tax at the schedule rate of such goods transferred. The position has been reiterated by the Commissioner of Commercial Taxes stating that such cases would not be eligible for compounding.</p> <p>Audit noticed that in CTO (WC), Ernakulam, three out of fifteen dealers had opted to pay tax at the compounded rates on their contract receipts for the fabrication/supply and installation of UPVC/aluminium doors and windows which resulted in incorrect compounding and application of incorrect rate of tax. This resulted in short levy of tax, interest and penalty amounting to 4.04 crore.</p>	<p><b><u>1. George Projects Pvt. Ltd.</u></b> <b><u>(32072027016)</u></b> <b><u>2012-13 to 2014-15</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Under the KVAT Act 2003, in the case of transfer of goods involved in the execution of works contract, where transfer is in the form of goods, the liability for tax shall be at the rate specified for such goods. Works contract involving fabrication, supply &amp; installation of UPVC/ aluminium doors windows would come under the category of transfer of materials in the form of goods. In above attract levy of tax at the scheduled rate of such goods as reiterated vide order No. C3/23011/13/CT dated 27.11.2013 of the Commissioner of Commercial Taxes stating that such cases would not be eligible for compounding.</p> <p>As noticed by Audit M/s George Projects Pvt Ltd bearing TIN 32072027016 was one of the dealer who opted to pay tax at the compounded rates on their contract receipts for the fabrication/supply installation of UPVC/ aluminium door &amp; windows which resulted in incorrect compounding &amp; application of incorrect rate of tax.</p> <p><b><u>2012-13</u></b></p> <p>Accordingly notice u/s 25(A) was issued to the dealer for the year 2012-13. The one &amp; only objection of the assessee was that transfer of materials in this case takes place not in the form of goods. The contentions put forth by the dealer could not be accepted, as the pre-fabricated materials were brought to the site as per the specifications &amp; measurements given by the awarder installed in the premises. Since the fabricated materials were made for the specific requirements of the awarder, it is a works contract coming within</p>

		<p>the category in the form of goods &amp; hence not eligible for compounding. Hence the compounded turnover of Rs.46,11,957/- for the year 2012-13 was assessed at the higher rate vide order No.32072027016/12-13 dated 16.06.2017. The additional demand created for the above year was Rs.7.31 lakhs. WP© 34390/17(W) dated 27.10.2017 is pending in the Hon'ble HC of Kerala.</p> <p><b><u>2013-14</u></b></p> <p>Accordingly notice u/s 25(A) was issued to the dealer for the year 2013-14 . The one &amp; only objection of the assessee was that transfer of materials in this case takes place not in the form of goods. The contentions put forth by the dealer could not be accepted, as the pre-fabricated materials were brought to the site as per the specifications &amp; measurements given by the awarder installed in the premises. Since the fabricated materials were made for the specific requirements of the awarder, it is a works contract coming within the category in the form of goods &amp; hence not eligible for compounding. Hence the compounded turnover of Rs.1,58,34,088/- for the year 2013-14 was assessed at the higher rate vide order No.32072027016/13-14 dated 16.06.2017. The additional demand created for the above year was Rs.25.31 lakhs. Opted amnesty scheme and settled arrears vide KL025676869202122E.</p> <p><b><u>2014-15</u></b></p> <p>Accordingly notice u/s 25(A) was issued to the dealer for the year 2014-15. The one &amp; only objection of the assessee was that transfer of materials in this case takes place not in the form of goods. The contentions put forth by the dealer could not be accepted, as the pre-fabricated materials were brought to the site as per the specifications &amp; measurements given by the awarder installed in the premises. Since the fabricated materials were made for the specific requirements of</p>
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		<p>the awarder, it is a works contract coming within the category in the form of goods &amp; hence not eligible for compounding. Hence the compounded turnover of Rs.2,77,74,250/- for the year 2014-15 was assessed at the higher rate vide order No.32072027016/14-15 dated 16.06.2017. The additional demand created for the above year was Rs.38.48 lakhs. WP© 34390/17(W) dated 27.10.2017 is pending in the Hon'ble HC of Kerala.</p>
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Para No.	Gist of the Case	Present Position
<b>2.5.3.3</b> <b>Sl.No.2</b>	<p>Under the KVAT Act, 2003 in the case of transfer of goods involved in the execution of works contract, where transfer is in the form of goods, the liability for tax shall be at the rate specified for such goods. Works contract involving fabrication, supply and installation of UPVC /aluminium doors and windows would come under the category of transfer of materials in the form of goods, which would attract levy of tax at the schedule rate of such goods transferred. The position has been reiterated by the Commissioner of Commercial Taxes stating that such cases would not be eligible for compounding.</p> <p>Audit noticed that in CTO (WC), Ernakulam, three out of fifteen dealers had opted to pay tax at the compounded rates on their contract receipts for the fabrication/supply and installation of UPVC/aluminium doors and windows which resulted in incorrect compounding and application of incorrect rate of tax. This resulted in short levy of tax, interest and penalty amounting to 4.04 crore.</p>	<p><b><u>2. M/s Sherin Hi-Fabs</u></b></p> <p><b><u>(32072033755)</u></b></p> <p><b><u>2012-13</u></b></p> <p><b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed vide order dated 12.03.2019. Additional demand Rs.2,13,931.00. RRC issued. Amnesty Scheme opted.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.3</b> <b>Sl.No.3</b></p>	<p>Under the KVAT Act, 2003 in the case of transfer of goods involved in the execution of works contract, where transfer is in the form of goods, the liability for tax shall be at the rate specified for such goods. Works contract involving fabrication, supply and installation of UPVC /aluminium doors and windows would come under the category of transfer of materials in the form of goods, which would attract levy of tax at the schedule rate of such goods transferred. The position has been reiterated by the Commissioner of Commercial Taxes stating that such cases would not be eligible for compounding.</p> <p>Audit noticed that in CTO (WC), Ernakulam, three out of fifteen dealers had opted to pay tax at the compounded rates on their contract receipts for the fabrication/supply and installation of UPVC/aluminium doors and windows which resulted in incorrect compounding and application of incorrect rate of tax. This resulted in short levy of tax, interest and penalty amounting to 4.04 crore.</p>	<p><b><u>3. M/s Sherin Hi-Fabs Contracts (I) Pvt. Ltd. (32072063859) 2012-13 CTO(WC), Ernakulam</u></b></p> <p>The assessment in respect of the above dealer for the year 2012-13 has been completed vide order No. 32072063859/2012-13 dated 21.10.2016 creating an additional demand of Rs.84,04,051.00. Collection stayed by the Hon'ble High Court as per WP(C)No. 36314/2016 dated 08.11.2016.</p>



## Para 2.5.3.4

Para No.	Gist of the Case	Present Position
2.5.3.4 Sl.No.1	<p>Under Section 8(a) of the KVAT Act, 2003 read with Rule 11(4) of the KVAT Rules, 2005 made thereunder, an awarder/principal contractor claiming exemption on sub contract payments shall obtain certificate in Form No 20 H from sub contractor. The said certificate should contain particulars such as gross amount of contract and a certificate from the assessing authority explicitly stating the liability discharged by the sub contractor during the year.</p> <p>Audit cross checked the sub contract payments made by the awarders/principal contractors in four assessing circles and noticed that in eight cases out of ten, the claim of exemption was not supported by certificate in Form No 20 H/not in consonance with the amount of liability discharged, as recorded in the certificates by the assessing authority/ certificates not related to the relevant year. In two cases, the assessee claimed excess exemption towards sub contract payments which did not tally with the annual accounts. The Act does not envisage the extent of detailed scrutiny of returns filed by the assessees.</p> <p>Further, there is no provision in the certificate in Form No. 20 H regarding the extent of liability discharged by the sub contractors during the year which has paved way for irregular exemption being claimed by the awarders. This resulted in short levy of tax, interest and penalty of 58.16 crore.</p>	<p><b><u>1. M/s Skyline Foundations</u></b>  <b><u>a Structures Ltd</u></b>  <b><u>(32011369345)</u></b>  <b><u>2013-14</u></b>  <b><u>CTO(WC),</u></b>  <b><u>Thiruvananthapuram</u></b></p> <p>Based on the audit objection assessment was completed as per the order No. 32011369345/2013-14 dated 23-06-2016 and creating the additional demand 100.99 lakhs. The dealer remitted an amount of Rs.18,03,429/- out of the tax amount Rs.80,39,317/-. For the rest of the amount the dealer opted Amnesty 2020 and paid Rs.24,94,355/- being 40% of tax amount vide chalan No. KL019448267202021E dated 22.02.2021. Hence no dues are outstanding against the dealer.</p>

Para No.	Gist of the Case	Present Position														
2.5.3.4 Sl.No.2	<p>Under Section 8(a) of the KVAT Act, 2003 read with Rule 11(4) of the KVAT Rules, 2005 made thereunder, an awarder/principal contractor claiming exemption on sub contract payments shall obtain certificate in Form No 20 H from sub contractor. The said certificate should contain particulars such as gross amount of contract and a certificate from the assessing authority explicitly stating the liability discharged by the sub contractor during the year.</p> <p>Audit cross checked the sub contract payments made by the awarders/principal contractors in four assessing circles and noticed that in eight cases out of ten, the claim of exemption was not supported by certificate in Form No 20 H/not in consonance with the amount of liability discharged, as recorded in the certificates by the assessing authority/ certificates not related to the relevant year. In two cases, the assessee claimed excess exemption towards sub contract payments which did not tally with the annual accounts. The Act does not envisage the extent of detailed scrutiny of returns filed by the assessees.</p> <p>Further, there is no provision in the certificate in Form No. 20 H regarding the extent of liability discharged by the sub contractors during the year which has paved way for irregular exemption being claimed by the awarders. This resulted in short levy of tax, interest and penalty of 58.16 crore.</p>	<p><b><u>2. Nirmithi Kendra</u></b> <b><u>(32528741212)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Kannur</u></b></p> <p>On verification of the assessment record with the reply furnished by the assessee, it is seen that “ Nirmithi Kendra” is executing the work directly and did not award any work to sub Contractors. All the payments approved and released to Nirmithi Kendra” are released after deducting “VAT” from the source itself. The assessee has stated that during the year 2012-13 TDS receipt for the total work contract receipt is Rs. 2,36,62,307/- But an amount of Rs.19,92,812/- wrongly mentioned in the taxable turnover after showing exemption Rs. 2,16,69,495/- is due to clerical error in the annual return for 2012-13 which is mentioned in the Audited report ( form No.13&amp;13A). The assessee has also filed Form No.20F obtained from the awarders.</p> <table><tr><td>Total taxable turnover as per annual return</td><td>Rs.2,36,62,307.00</td></tr><tr><td>Tax payable @3% on Rs.2,36,62,307/-</td><td></td></tr><tr><td></td><td>=Rs.7,09,869.00</td></tr><tr><td>Cess @1% on tax</td><td></td></tr><tr><td></td><td>Rs.7,099.00</td></tr><tr><td>Total</td><td>Rs.7,16,968.00</td></tr><tr><td>Total tax paid as per chalan receipts for 2012-13</td><td>Rs.8,01,235.00</td></tr></table> <p>Therefore the defect may be kindly be dropped.</p>	Total taxable turnover as per annual return	Rs.2,36,62,307.00	Tax payable @3% on Rs.2,36,62,307/-			=Rs.7,09,869.00	Cess @1% on tax			Rs.7,099.00	Total	Rs.7,16,968.00	Total tax paid as per chalan receipts for 2012-13	Rs.8,01,235.00
Total taxable turnover as per annual return	Rs.2,36,62,307.00															
Tax payable @3% on Rs.2,36,62,307/-																
	=Rs.7,09,869.00															
Cess @1% on tax																
	Rs.7,099.00															
Total	Rs.7,16,968.00															
Total tax paid as per chalan receipts for 2012-13	Rs.8,01,235.00															

Para No.	Gist of the Case	Present Position
2.5.3.4 Sl.No.3	<p>Under Section 8(a) of the KVAT Act, 2003 read with Rule 11(4) of the KVAT Rules, 2005 made there-under, an awarder/principal contractor claiming exemption on sub contract payments shall obtain certificate in Form No 20 H from sub contractor. The said certificate should contain particulars such as gross amount of contract and a certificate from the assessing authority explicitly stating the liability discharged by the sub contractor during the year.</p> <p>Audit cross checked the sub contract payments made by the awarders/principal contractors in four assessing circles and noticed that in eight cases out of ten, the claim of exemption was not supported by certificate in Form No 20 H/not in consonance with the amount of liability discharged, as recorded in the certificates by the assessing authority/ certificates not related to the relevant year. In two cases, the assessee claimed excess exemption towards sub contract payments which did not tally with the annual accounts. The Act does not envisage the extent of detailed scrutiny of returns filed by the assessee.</p> <p>Further, there is no provision in the certificate in Form No. 20 H regarding the extent of liability discharged by the sub contractors during the year which has paved way for irregular exemption being</p>	<p><b><u>3. M/s. EKK &amp; Co</u></b> <b><u>(32151046307)</u></b> <b><u>2013-14</u></b> <b><u>CTO(WC), Mattancherry</u></b></p> <p>The assessee had awarded the subcontract of M/s. Avance Engineering and Infrastructure Pvt Ltd. The audit enquiry has been verified with the Form 20H produced by the dealer. On verification it is found that the subcontractor had furnished Form 20H for full amount. The details of 20H are as follows:-</p> <p><b><u>Assessment year 2012-13</u></b></p> <p>Form 20H received during the year 2012-13</p> <p style="text-align: right;">: Rs.3,03,76,842/- : Rs.1,22,73,740/- : Rs.2,78,57,028/- .....</p> <p>Total exemption claim from 20H</p> <p style="text-align: right;">: Rs.7,05,07,610/-</p> <p>Exemption claimed(2012-13)</p> <p style="text-align: right;">: Rs.2,87,58,115/- : Rs.2,96,65,168/- .....</p> <p><b>Total</b> : Rs.5,84,23,283/-</p> <p>(Here the assessee even though eligible for exemption for Rs.7,05,07,610/- it utilized only Rs.5,84,23,283/-)</p> <p style="text-align: right;">: Rs.7,05,07,610/- : Rs.5,84,23,283/- .....</p> <p>Hence there is a balance Exemption claim</p> <p style="text-align: right;">:Rs.1,20,84,327/-</p> <p><b><u>Assessment Year 2013-14</u></b></p> <p>Form 20H received for the year 2013-14</p> <p style="text-align: right;">: Rs.2,23,69,157/- : Rs.3,82,16,497/-</p> <p>Balance carried forward from 2012-13</p>

	<p>claimed by the awarders. This resulted in short levy of tax, interest and penalty of 58.16 crore.</p>	<p style="text-align: right;">: Rs.1,20,84,327/-</p> <p>Total exemption claim</p> <p style="text-align: right;">: Rs.7,26,69,981/-</p> <p>Exemption claimed for 2013-14</p> <p style="text-align: right;">: Rs.3,43,93,484/-</p> <p style="text-align: right;">: Rs. 3,82,16,497/-</p> <p style="text-align: right;">.....</p> <p style="text-align: right;">Total : Rs.7,26,09,981/-</p> <p style="text-align: right;">.....</p> <p>Balance : NIL</p> <p>In this circumstances the audit objection in this case may kindly be dropped.</p>
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Para No.	Gist of the Case	Present Position
2.5.3.4 Sl.No.4	<p>Under Section 8(a) of the KVAT Act, 2003 read with Rule 11(4) of the KVAT Rules, 2005 made thereunder, an awarder/principal contractor claiming exemption on sub contract payments shall obtain certificate in Form No 20 H from sub contractor. The said certificate should contain particulars such as gross amount of contract and a certificate from the assessing authority explicitly stating the liability discharged by the sub contractor during the year.</p> <p>Audit cross checked the sub contract payments made by the awarders/principal contractors in four assessing circles and noticed that in eight cases out of ten, the claim of exemption was not supported by certificate in Form No 20 H/not in consonance with the amount of liability discharged, as recorded in the certificates by the assessing authority/ certificates not related to the relevant year. In two cases, the assessee claimed excess exemption towards sub contract payments which did not tally with the annual accounts. The Act does not envisage the extent of detailed scrutiny of returns filed by the assessees.</p> <p>Further, there is no provision in the certificate in Form No. 20 H regarding the extent of liability discharged by the sub contractors during the year which has paved way for irregular exemption being claimed by the awarders. This resulted in short levy of tax, interest and penalty of 58.16 crore.</p>	<p><b><u>4. M/s. Asset Homes Pvt. Ltd.</u></b> <b><u>(32072010445)</u></b> <b><u>2014-15</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed vide order dated 30.10.2019 created additional demand of Rs.10,23,772.00. RRC issued.</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.4</b> <b>Sl.No.5</b>	<p>Under Section 8(a) of the KVAT Act, 2003 read with Rule 11(4) of the KVAT Rules, 2005 made thereunder, an awarder/principal contractor claiming exemption on sub contract payments shall obtain certificate in Form No 20 H from sub contractor. The said certificate should contain particulars such as gross amount of contract and a certificate from the assessing authority explicitly stating the liability discharged by the sub contractor during the year.</p> <p>Audit cross checked the sub contract payments made by the awarders/principal contractors in four assessing circles and noticed that in eight cases out of ten, the claim of exemption was not supported by certificate in Form No 20 H/not in consonance with the amount of liability discharged, as recorded in the certificates by the assessing authority/ certificates not related to the relevant year. In two cases, the assessee claimed excess exemption towards sub contract payments which did not tally with the annual accounts. The Act does not envisage the extent of detailed scrutiny of returns filed by the assessees.</p> <p>Further, there is no provision in the certificate in Form No. 20 H regarding the extent of liability discharged by the sub contractors during the year which has paved way for irregular exemption being claimed by the awarders. This resulted in short levy of tax, interest and penalty of 58.16 crore.</p>	<p><b><u>5. M/s. KSCC</u></b>  <b><u>(32072082322)</u></b>  <b><u>2012-13 &amp; 2013-14</u></b>  <b><u>CTO(WC), Ernakulam</u></b></p> <p><b><u>2012-13</u></b>  Assessment completed covering the defects vide order dated 28.3.2019 and creating Additional Demand of Rs.25,15,11,744.00. WPC No.21188/2019 is pending in the Hon'ble HC of Kerala.</p> <p><b><u>2013-14</u></b>  Assessment has been completed and the amount is under RR.</p>

Para No.	Gist of the Case	Present Position
2.5.3.4 Sl.No.6	<p>Under Section 8(a) of the KVAT Act, 2003 read with Rule 11(4) of the KVAT Rules, 2005 made thereunder, an awarder/principal contractor claiming exemption on sub contract payments shall obtain certificate in Form No 20 H from sub contractor. The said certificate should contain particulars such as gross amount of contract and a certificate from the assessing authority explicitly stating the liability discharged by the sub contractor during the year.</p> <p>Audit cross checked the sub contract payments made by the awarders/principal contractors in four assessing circles and noticed that in eight cases out of ten, the claim of exemption was not supported by certificate in Form No 20 H/not in consonance with the amount of liability discharged, as recorded in the certificates by the assessing authority/ certificates not related to the relevant year. In two cases, the assessee claimed excess exemption towards sub contract payments which did not tally with the annual accounts. The Act does not envisage the extent of detailed scrutiny of returns filed by the assessees.</p> <p>Further, there is no provision in the certificate in Form No. 20 H regarding the extent of liability discharged by the sub contractors during the year which has paved way for irregular exemption being claimed by the awarders. This resulted in short levy of tax, interest and penalty of 58.16 crore.</p>	<p><b><u>6. M/s Tiknar Homes Pvt Ltd</u></b>  <b><u>(32072022808)</u></b>  <b><u>2012-13</u></b>  <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed as per order No.32072022808/2012-13 dated 17.08.2017 creating additional demand of Rs.11.50 lakhs. Govt. stay No.3996/B2/2013 TD dated 19.2.13</p>

Para No.	Gist of the Case	Present Position
<b>2.5.3.4 Sl.No.7</b>	<p>Under Section 8(a) of the KVAT Act, 2003 read with Rule 11(4) of the KVAT Rules, 2005 made thereunder, an awarder/principal contractor claiming exemption on sub contract payments shall obtain certificate in Form No 20 H from sub contractor. The said certificate should contain particulars such as gross amount of contract and a certificate from the assessing authority explicitly stating the liability discharged by the sub contractor during the year.</p> <p>Audit cross checked the sub contract payments made by the awarders/principal contractors in four assessing circles and noticed that in eight cases out of ten, the claim of exemption was not supported by certificate in Form No 20 H/not in consonance with the amount of liability discharged, as recorded in the certificates by the assessing authority/ certificates not related to the relevant year. In two cases, the assessee claimed excess exemption towards sub contract payments which did not tally with the annual accounts. The Act does not envisage the extent of detailed scrutiny of returns filed by the assessees.</p> <p>Further, there is no provision in the certificate in Form No. 20 H regarding the extent of liability discharged by the sub contractors during the year which has paved way for irregular exemption being claimed by the awarders. This resulted in short levy of tax, interest and penalty of 58.16 crore.</p>	<p><b><u>7. M/s Mabel Engineers Pvt Ltd</u></b>  <b><u>(V)</u></b>  <b><u>(32072014056)</u></b>  <b><u>2014-15</u></b>  <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed as per order No.32072014056/2014-15 dated 21.12.2017. Additional demand created Rs.27,72,390.00.</p> <p>Assessment modified on 30.09.2022 and new demand is Tax- Rs.10,16,864/- and Interest – Rs.9,36,058/-. Total- Rs.19,52,922/-.</p>



Para No.	Gist of the Case	Present Position
<p><b>2.5.3.4</b> <b>Sl.No.8</b></p>	<p>Under Section 8(a) of the KVAT Act, 2003 read with Rule 11(4) of the KVAT Rules, 2005 made thereunder, an awarder/principal contractor claiming exemption on sub contract payments shall obtain certificate in Form No 20 H from sub contractor. The said certificate should contain particulars such as gross amount of contract and a certificate from the assessing authority explicitly stating the liability discharged by the sub contractor during the year.</p> <p>Audit cross checked the sub contract payments made by the awarders/principal contractors in four assessing circles and noticed that in eight cases out of ten, the claim of exemption was not supported by certificate in Form No 20 H/not in consonance with the amount of liability discharged, as recorded in the certificates by the assessing authority/ certificates not related to the relevant year. In two cases, the assessee claimed excess exemption towards sub contract payments which did not tally with the annual accounts. The Act does not envisage the extent of detailed scrutiny of returns filed by the assessees.</p> <p>Further, there is no provision in the certificate in Form No. 20 H regarding the extent of liability discharged by the sub contractors during the year which has paved way for irregular exemption being claimed by the awarders. This resulted in short levy of tax, interest and penalty of 58.16 crore.</p>	<p><b><u>8. M/s. Tech Steel</u></b> <b><u>(32072063174)</u></b> <b><u>2014-15</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>Assessment completed as per order No.32072063174/2014-15 dated 12.03.2018. Additional demand created Rs.42.21 lakhs. Remanded by appellate authority for fresh disposal as per KVAT 1510/18.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.4</b> <b>Sl.No.9</b></p>	<p>Under Section 8(a) of the KVAT Act, 2003 read with Rule 11(4) of the KVAT Rules, 2005 made thereunder, an awarder/principal contractor claiming exemption on sub contract payments shall obtain certificate in Form No 20 H from sub contractor. The said certificate should contain particulars such as gross amount of contract and a certificate from the assessing authority explicitly stating the liability discharged by the sub contractor during the year.</p> <p>Audit cross checked the sub contract payments made by the awarders/principal contractors in four assessing circles and noticed that in eight cases out of ten, the claim of exemption was not supported by certificate in Form No 20 H/not in consonance with the amount of liability discharged, as recorded in the certificates by the assessing authority/certificates not related to the relevant year. In two cases, the assessee claimed excess exemption towards sub contract payments which did not tally with the annual accounts. The Act does not envisage the extent of detailed scrutiny of returns filed by the assessees.</p> <p>Further, there is no provision in the certificate in Form No. 20 H regarding the extent of liability discharged by the sub contractors during the year which has paved way for irregular exemption being claimed by the awarders. This resulted in short levy of tax, interest and penalty of 58.16 crore.</p>	<p><b><u>9. M/s. GR Engineering Pvt. Ltd.</u></b> <b><u>(32072044465)</u></b> <b><u>2013-14 &amp; 2012-13</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p>The assessee opted Amnesty Scheme and cleared dues.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.4</b> <b>Sl.No.10</b></p>	<p>Under Section 8(a) of the KVAT Act, 2003 read with Rule 11(4) of the KVAT Rules, 2005 made thereunder, an awarder/principal contractor claiming exemption on sub contract payments shall obtain certificate in Form No 20 H from sub contractor. The said certificate should contain particulars such as gross amount of contract and a certificate from the assessing authority explicitly stating the liability discharged by the sub contractor during the year.</p> <p>Audit cross checked the sub contract payments made by the awarders/principal contractors in four assessing circles and noticed that in eight cases out of ten, the claim of exemption was not supported by certificate in Form No 20 H/not in consonance with the amount of liability discharged, as recorded in the certificates by the assessing authority/ certificates not related to the relevant year. In two cases, the assessee claimed excess exemption towards sub contract payments which did not tally with the annual accounts. The Act does not envisage the extent of detailed scrutiny of returns filed by the assesseees.</p> <p>Further, there is no provision in the certificate in Form No. 20 H regarding the extent of liability discharged by the sub contractors during the year which has paved way for irregular exemption being claimed by the awarders. This resulted in short levy of tax, interest and penalty of 58.16 crore.</p>	<p><b><u>10. M/s. Skyline Builders</u></b> <b><u>(32072047255)</u></b> <b><u>2012-13 to 2014-15</u></b> <b><u>CTO(WC), Ernakulam</u></b></p> <p><b><u>2012-13</u></b> Assessment has been completed. The assessee opted Amnesty Scheme and paid the dues.</p> <p><b><u>2013-14</u></b> Assessment has been completed. The assessee opted Amnesty Scheme and paid the dues.</p> <p><b><u>2014-15</u></b> Assessment completed covering the defects vide order dated 18.2.2020. Additional Demand Rs.38,92,986.00. Dealer opted Amnesty Scheme and paid in full. (chalan no. KL003467655202021M dated 29.6.2020.)</p>

## Para 2.5.3.5

Para No.	Gist of the Case	Present Position
<b>2.5.3.5</b> <b>Sl.No.1</b>	<p>Under Section 10 of the KVAT Act, 2003 an awarder shall deduct TDS from the sub contract payments to the sub-contractor. The rate of such deduction/non deduction should be mentioned in the liability certificate in Form 1EE issued by the assessing authority of the sub contractor. If no such certificate is furnished by the sub contractor to the principal contractor/awarder, the TDS should be effected at the rate of 8 per cent of the sub contract payments in the case of registered contractor, and at 10 per cent in the case of un-registered contractors. The awarder also had to file return in Form No 10 C, mentioning the details of work sub contracted, to his assessing authority under Rule 32. Further, as per Rule 42(4), the awarder has to issue certificate in Form No 20 F to sub contractor detailing the work awarded, amount paid and TDS effected, if any, and the sub contractor in turn issues certificate in Form 20 G to awarder confirming the work accepted/executed and amount received from the awarder.</p> <p>In three assessment circles, Audit noticed that awarders had not effected TDS on sub contract payments at stipulated rate. The short levy of tax, interest and penalty in six cases would come to Rs.6.36 crore.</p>	<p><b><u>1. M/s Asset Homes Private Limited</u></b>  <b><u>(32072010445)</u></b>  <b><u>2012-13</u></b>  <b><u>CTO (WC), Ernakulam</u></b></p> <p>Based on the audit objection the assessment was completed as per Order No.32072010445/2012-13 dated 27.02.2019 creating an additional demand Rs.12,86,112/- (Tax :Rs.7,52,112/- and Interest: Rs.5,34,000/-). The dealer opted amnesty scheme 2019-20 and paid Tax due Rs.7,52,112/- vide chalan No.KL001443345201920M dated 09.05.2019.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.5</b> <b>Sl.No.2</b></p>	<p>Under Section 10 of the KVAT Act, 2003 an awarder shall deduct TDS from the sub contract payments to the sub-contractor. The rate of such deduction/non deduction should be mentioned in the liability certificate in Form 1EE issued by the assessing authority of the sub contractor. If no such certificate is furnished by the sub contractor to the principal contractor/awarder, the TDS should be effected at the rate of 8 per cent of the sub contract payments in the case of registered contractor, and at 10 per cent in the case of un-registered contractors. The awarder also had to file return in Form No 10 C, mentioning the details of work sub contracted, to his assessing authority under Rule 32. Further, as per Rule 42(4), the awarder has to issue certificate in Form No 20 F to sub contractor detailing the work awarded, amount paid and TDS effected, if any, and the sub contractor in turn issues certificate in Form 20 G to awarder confirming the work accepted/executed and amount received from the awarder.</p> <p>In three assessment circles, Audit noticed that awarders had not effected TDS on sub contract payments at stipulated rate. The short levy of tax, interest and penalty in six cases would come to Rs.6.36 crore.</p>	<p><b><u>2. M/s. HLL Life Care Limited</u></b> <b><u>(32072097341)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p>In Audit Objection the TIN mentioned against the dealer is 32072097341 but correct TIN is 32011317887.</p> <p>Based on the audit objection the assessment has been completed as per the order No.32011317887/2012-13 dated 20-03-2015 creating additional demand of Rs.14.44 lakh. The dealer preferred appeal before Deputy Commissioner(Appeals). The appellate authority directed to modify the appeal. The assessing authority modified the original assessment and the demand became to NIL. Hence no dues are outstanding against the dealer.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.5</b> <b>Sl.No.3</b></p>	<p>Under Section 10 of the KVAT Act, 2003 an awarder shall deduct TDS from the sub contract payments to the sub-contractor. The rate of such deduction/non deduction should be mentioned in the liability certificate in Form 1EE issued by the assessing authority of the sub contractor. If no such certificate is furnished by the sub contractor to the principal contractor/awarder, the TDS should be effected at the rate of 8 per cent of the sub contract payments in the case of registered contractor, and at 10 per cent in the case of unregistered contractors. The awarder also had to file return in Form No 10 C, mentioning the details of work sub contracted, to his assessing authority under Rule 32. Further, as per Rule 42(4), the awarder has to issue certificate in Form No 20 F to sub contractor detailing the work awarded, amount paid and TDS effected, if any, and the sub contractor in turn issues certificate in Form 20 G to awarder confirming the work accepted/executed and amount received from the awarder.</p> <p>In three assessment circles, Audit noticed that awarders had not effected TDS on sub contract payments at stipulated rate. The short levy of tax, interest and penalty in six cases would come to Rs.6.36 crore.</p>	<p><b><u>3. M/s TRDCL</u></b> <b><u>(32592641212)</u></b> <b><u>2012-13</u></b> <b><u>CTO(WC), Thiruvananthapuram</u></b></p> <p>M/s.Thiruvananthapuram Road Development Company Ltd is an assessee borne on the rolls of the Works Contract Office, Thiruvananthapuram bearing TIN:32011395603. The assessment for the year 2012-13 was completed as per section 25 of the KVAT Act vide order No. 32011395603/2012-13 dated 01.05.2015 by assessing the entire contract amount of Rs.28,23,62,297/- and created a demand of Rs. 1,27,97,135/-. Subsequently the assessee put an application for rectification under section 66 of the Act. The assessing authority rectified the original assessment vide order No. 332011395603/2012-13 dated 21.05.2015 on the basis of Form 20H Certificate and Form 20F. Since the entire contract receipt comes under Sub-contracts, and exemption is allowed for the whole amount on the support of Form 20H, the balance taxable contract receipt comes to NIL. Hence there is no loss of revenue occur to the state exchequer.</p>

Para No.	Gist of the Case	Present Position
2.5.3.5 Sl.No.4	<p>Under Section 10 of the KVAT Act, 2003 an awarder shall deduct TDS from the sub contract payments to the sub-contractor. The rate of such deduction/non deduction should be mentioned in the liability certificate in Form 1EE issued by the assessing authority of the sub contractor. If no such certificate is furnished by the sub contractor to the principal contractor/awarder, the TDS should be effected at the rate of 8 per cent of the sub contract payments in the case of registered contractor, and at 10 per cent in the case of un-registered contractors. The awarder also had to file return in Form No 10 C, mentioning the details of work sub contracted, to his assessing authority under Rule 32. Further, as per Rule 42(4), the awarder has to issue certificate in Form No 20 F to sub contractor detailing the work awarded, amount paid and TDS effected, if any, and the sub contractor in turn issues certificate in Form 20 G to awarder confirming the work accepted/executed and amount received from the awarder.</p> <p>In three assessment circles, Audit noticed that awarders had not effected TDS on sub contract payments at stipulated rate. The short levy of tax, interest and penalty in six cases would come to Rs.6.36 crore.</p>	<p><b><u>4. M/s. IL&amp;FS Township and Urban Assets</u></b> <b><u>(32592641212)</u></b> <b><u>2014-15</u></b> <b><u>CTO (WC), Thiruvananthapuram</u></b></p> <p>In audit objection TIN mentioned against the dealer is 32592641212 but correct TIN is 32011361076.</p> <p>Based on the audit objection the assessment has been completed as per the order No. 32011361076/2014-15 dated 17/07/2017 creating additional demand of Rs.9.29 Lakhs. The assessee filed appeal before DC (Appeal). The original assessment modified and the demand reduced to 'NIL'. Hence no dues are outstanding against the dealer.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.5</b> <b>Sl.No.5</b></p>	<p>Under Section 10 of the KVAT Act, 2003 an awarder shall deduct TDS from the sub contract payments to the sub-contractor. The rate of such deduction/non deduction should be mentioned in the liability certificate in Form 1EE issued by the assessing authority of the sub contractor. If no such certificate is furnished by the sub contractor to the principal contractor/awarder, the TDS should be effected at the rate of 8 per cent of the sub contract payments in the case of registered contractor, and at 10 per cent in the case of unregistered contractors. The awarder also had to file return in Form No 10 C, mentioning the details of work sub contracted, to his assessing authority under Rule 32. Further, as per Rule 42(4), the awarder has to issue certificate in Form No 20 F to sub contractor detailing the work awarded, amount paid and TDS effected, if any, and the sub contractor in turn issues certificate in Form 20 G to awarder confirming the work accepted/ executed and amount received from the awarder.</p> <p>In three assessment circles, Audit noticed that awarders had not effected TDS on sub contract payments at stipulated rate. The short levy of tax, interest and penalty in six cases would come to Rs.6.36 crore.</p>	<p><b><u>5. M/s Heera Construction Co. Ltd.</u></b> <b><u>(32011329532)</u></b> <b><u>2013-14</u></b> <b><u>CTO (WC), Thiruvananthapuram</u></b></p> <p>Based on the audit objection, the assessment in respect of the dealer for the year 2013-14 was completed on 30.12.2015 and created additional demand of Rs.7,87,45,919/-(Tax: Rs.6,50,79,272/-, Interest: Rs.1,36,66,648/-). Subsequently on the request of the assessee, the assessing authority rectified the assessment vide Order No.32011329532/2013-14 dated 09.05.2016 there by the demand reduced to Rs.6,33,09,929/-(Tax: Rs.5,02,45,975/-, Interest: Rs.1,30,63,954/-). In the interest of the protection of revenue, the demand was advised for Revenue Recovery and is before RR authorities Vide Revenue Requisition No.2017/837/01. Now, as per the decision of the National Company Law Tribunal, an Interim Resolution Professional has been posted for managing the insolvency proceedings against M/s. Heera Constructions. Any amount due from M/s. Heera Constructions can be realized only on the basis of the decision of the National Company Law Tribunal.</p>



Para No.	Gist of the Case	Present Position
<p><b>2.5.3.5</b> <b>Sl.No.6</b></p>	<p>Under Section 10 of the KVAT Act, 2003 an awarder shall deduct TDS from the sub contract payments to the sub-contractor. The rate of such deduction/non deduction should be mentioned in the liability certificate in Form 1EE issued by the assessing authority of the sub contractor. If no such certificate is furnished by the sub contractor to the principal contractor/awarder, the TDS should be effected at the rate of 8 per cent of the sub contract payments in the case of registered contractor, and at 10 per cent in the case of unregistered contractors. The awarder also had to file return in Form No 10 C, mentioning the details of work sub contracted, to his assessing authority under Rule 32. Further, as per Rule 42(4), the awarder has to issue certificate in Form No 20 F to sub contractor detailing the work awarded, amount paid and TDS effected, if any, and the sub contractor in turn issues certificate in Form 20 G to awarder confirming the work accepted/executed and amount received from the awarder.</p> <p>In three assessment circles, Audit noticed that awarders had not effected TDS on sub contract payments at stipulated rate. The short levy of tax, interest and penalty in six cases would come to Rs.6.36 crore.</p>	<p><b><u>6. EKK&amp;Co</u></b> <b><u>(32151046307)</u></b> <b><u>2014-15</u></b> <b><u>CTO (WC), Mattancherry</u></b></p> <p>M/s.EKK &amp; Company is an assessee on the rolls of Deputy Commissioner, Works Contract, Mattancherry. In accordance with the audit objection, the assessment in respect of the dealer was completed creating additional demand of Rs.1,21,81,518/- and interest:Rs.28,01,749/-. Against this assessment order, the assessee filed WP(C) before the Hon. High Court of Kerala and as per the WP(C)No.12304/2017(K) dated 31.05.2017 the Hon. High Court, directed appellate authority to pass orders within 2 months from the date of receipt of the copy of the judgment. As per KVATA No.1943/2017 dated 21.08.2019, the Deputy Commissioner (A), Ernakulam ordered to modify the assessment order. Against the appellate order the department filed 2<sup>nd</sup> appeal before the appellate Tribunal on 30.06.2020 as per T.A. No. 141/2020. The dealer filed amnesty application and the same has been approved with original demand on 05.02.2021. But since the dealer has not remitted any amount under the amnesty scheme within the time limit, the option was expired on 15.03.2021. Second Appeal filed and the case posted for hearing on 30.11.2022.</p>

**Para 2.5.3.6**

<b>Para No.</b>	<b>Gist of the Case</b>	<b>Present Position</b>
<b>2.5.3.6</b> <b>Sl.No.1</b>	<p>Under Section 31 of the KVAT Act, 2003 a dealer is liable to pay tax on the taxable turnover. In CTO (WC), Mattancherry, Audit noticed that two work contractors short remitted the tax due, interest and penalty amounting to 50.34 lakh.</p>	<p style="text-align: center;"><b><u>1. EKK &amp; Co.</u></b>  <b><u>(32151046307)</u></b>  <b><u>2014-15</u></b>  <b><u>CTO (WC), Mattancherry</u></b></p> <p>In accordance with the audit objection, the assessment in respect of M/s.EKK &amp; Company was completed by creating additional demand of Rs.1,21,81,518/- and interest Rs.28,01,749/-. Against this assessment order the assessee filed WP(C) before the Hon. High Court of Kerala and as per order no WP© No.12304/2017(K) dated 31.05.2017. The Hon. High Court directed the appellate authority to pass orders within 2 months from the date of receipt of the copy of the judgment.</p> <p>As per KVATA No.1943/2017 dated 21.08.2019, the Deputy Commissioner (A), Ernakulam ordered to modify the assessment order. Against the appellate order assessing authority preferred 2<sup>nd</sup> appeal before the Hon'ble Tribunal, Ernakulam on 30.06.2020 as per TA No 141/2020 and the case is pending for disposal. The case posted for hearing on 30.11.2022</p>

Para No.	Gist of the Case	Present Position
<p><b>2.5.3.6</b> <b>Sl.No.2</b></p>	<p>Under Section 31 of the KVAT Act, 2003 a dealer is liable to pay tax on the taxable turnover. In CTO (WC), Mattancherry, Audit noticed that two work contractors short remitted the tax due, interest and penalty amounting to 50.34 lakh.</p>	<p><b><u>2. Nechupadam Constructions Pvt Ltd</u></b> <b><u>(32151007405)</u></b> <b><u>2014-15</u></b> <b><u>CTO (WC), Mattancherry</u></b></p> <p>In accordance with the audit objection the assessment was completed by the assessing authority by creating additional demand of Rs.2,81,283/- and interest of Rs. 64,695/-. Against this order the dealer filed appeal before the Deputy Commissioner (Appeals)V, Ernakulam. As per KVATA 878/17 dated 31.10.2019, the appellate authority observed as follows:</p> <p>“I have considered the contentions of the appellant in detail. The awarder M/s Steel Industries Kerala Ltd., has remitted Rs.2,81,284/- towards TDS with interest of Rs.19,235/- on a total contract receipt of Rs.93,76,143/-. The payment was made on 14.11.2014. The receipt was for the year 2013-14. However, by this time the appellant has already filed the annual return and audit report for the year 2013-14 and hence the appellant could not include the turnover of Rs.93,76,143/- and corresponding TDS of Rs.2,81,284/- in the annual return or the audit report for the year 2013-14. On the other hand, in the annual return filed for the year 2014-15 the appellant has included the missed turnover and corresponding TDS of Rs.93,76,143/- and Rs.2,81,284/- respectively relating to the year 2013-14. I have verified 20F certificates of the awarder, the awarder payment details as per KVATIS for the year 2013-14, the statement furnished by the awarder as in KVATIS for March 2013-14 and October 2014-15, the annual return and audit report for the year 2013-14 &amp; 2014-15. It</p>

	<p>is clearly proved that as per the awarder payment details as in KVATIS for the year 2013-14 the awarder has paid an amount of Rs.93,76,143/- and effected TDS of Rs.2,81,284/-. The appellant included this turnover and TDS in their return for the year 2014-15 because by the time the appellant came to know about the TDS of Rs.2,81,284/- they have already filed the annual return and Form 13 &amp; 13A for the year 2013-14. The liability of Rs.2,81,284/- as shown in the return for the year 2014-15 has already been remitted with interest by the awarder of the appellant. As such there is no amount due from the appellant for the year 2014-15. In the result the appeal is allowed setting aside the assessment order.”</p> <p>As per the report of the assessing authority, the assessee had stated that the amount of Rs.93,76,145/- paid by the awarder M/s. Steel Industries Kerala Ltd., on 31.03.2014 was included in the return filed during the year 2014-15. The amount was received by the assessee on 14.11.2014. The Appellate Authority had verified the above contention of the assessee as stated in the above paragraph in the appellate order and found correct. This had been verified by the assessing authority with the return for the year 2014-15 with the awarder statement filed by the awarder in the year 2014-15 available in KVATIS. The details are as follows.</p> <p>Total payment from the awarder in 2014-15 as per awarder statement</p> <p style="text-align: right;">: Rs.1,55,79,830.00</p> <p>Receipts from M/s. Steel Industries Kerala Ltd in the year 2014-15 as per return</p> <p style="text-align: right;">:Rs.2,49,55,973.00</p> <p><b>Difference</b> <span style="float: right;"><b>:Rs.93,76,143.00</b></span></p> <p>As per the details shown above, the assessee had included the turnover Rs.93,76,143/- in the return filed during the year 2014-15. The</p>
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		<p>amount was paid in 31.03.2014 by the awarder (awarder statement 2013-14) along with the TDS Rs.2,81,284/-. However, the same payment was received the assessee only on 14.11.2014 and included in the return for 2014-15. However, the corresponding TDS in this case was paid by the awarder in 2013-14 as per awarder payment statement filed for 2013-14.</p> <p>The above facts prove that the findings of the appellate authority and hence there is no revenue loss in this case.</p>
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## Para 2.6.1

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.1	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSP CB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>1. Banyas Granite Industries (32101077701)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>AIT&amp;CTO, Manjeri at Kottakkal</u></b></p> <p><b><u>2009-10</u></b>  Based on the audit objection, the assessment for the year 2009-10 was completed on 17/02/2016 estimating the turnover suppression of one non-conceded machine as Rs.12,05,568/- and assessed @ 12.5%. The additional demand created was Rs.2,58,745/- (Rs.1,52,203/- tax and Rs.1,06,542/- Interest).  Penalty U/S 67(1) of the KVAT Act was also imposed on the dealer for the willful omission of one crushing machine and short payment of tax.  The dealer had challenged the assessment order before Assistant Commissioner (Appeal), Palakkad and penalty order before the Deputy Commissioner, Commercial Taxes, Malappuram. Vide KVAT RP No.168/2016 dated 30/03/2016, the penalty order was modified by the Deputy Commissioner, Malappuram.  Later, the dealer had applied for opting Amnesty Scheme for the settlement of arrear (Tax:Rs.1,52,203/- and Penalty Rs.3,01,392/-) and withdrawn the appeal before the Assistant Commissioner(Appeals), Palakkad. This office has permitted the dealer to remit the arrear tax and 30% of penalty under Amnesty Scheme in six equal monthly installments of Rs.40,438/- (Rs.25,368/- tax + Rs.15,070/- Penalty) from July 2017 onwards. The dealer paid all the installments promptly and no arrear is left for the year 2009-10.</p> <p><b><u>2010-11</u></b>  The assessment was completed on 18/02/2016 and created additional demand for Rs.2,88,536/- (Rs.1,82,618 /- tax and Rs.1,05,918/- Interest). Penalty U/S 67(1) of the Act was also imposed against the dealer.  The dealer had challenged the assessment order before Assistant Commissioner (Appeal), Palakkad and penalty order before the Deputy Commissioner, Commercial Taxes, Malappuram. Vide KVAT RP No.169/2016 dated 30/03/2016,</p>

the penalty order was modified by the Deputy Commissioner, Malappuram.

Later, the dealer has applied for opting Amnesty Scheme for the settlement of arrear (Tax Rs.1,82,618/- and Penalty Rs.3,61,620/-) and withdrawn the appeal before the Assistant Commissioner (Appeals), Palakkad. This office has permitted the dealer to remit the arrear tax and 30% of penalty under Amnesty Scheme in six equal monthly installments of Rs.48,518/-(Rs.30,437/-tax +Rs.18,081/- Penalty) from July 2017 onwards. The dealer paid the full demand in six installments promptly.

#### **2011-12**

The assessment was completed on 14/02/2018 and created additional demand of Rs.3,29,400/- (Rs.1,80,000 /- tax and Rs.1,49,400/- Interest). Penalty of Rs.3,60,000/- was also imposed against the dealer U/S 67(1) of the Act. The dealer had paid Rs.1,08,000/- being 20% of the demand( ie Tax : Rs. 180,000, 20% of tax is Rs. 36000) and filed appeal before the D.C. (Appeal), Kozhikkode. Vide VATA 326/18 and 325/18 the Deputy Commissioner (Appeals), Kozhikkode has modified both the assessment order and penalty order. Later, the additional demand created as per the original orders was restored as per the modified orders dated 17.08.2019. Balance amount of tax of Rs. 1,44,000 was paid by Amnesty Scheme 2019 by waiving the interest and penalty. Thus the entire tax Rs.1,80,000/- has been remitted by the dealer.

#### **2012-13**

A Pre-assessment notice U/s. 25(1) was issued to M/s. Baniyas Granites, Kadampuzha, proposing to reject the return and accounts and to complete the assessment estimating the turnover suppression of one non conceded size II secondary machine. On receipt of the above notice, the dealer filed the following objections.

They had used a single secondary metal crusher unit and applied for permission to pay compound tax U/s. 8(b) of the KVAT Act for the year 2012-13. Accordingly the assessing authority has granted permission to pay compounded tax @ Rs.1,60,000/- in order in Form No. 1E. Even though they had obtained permission from the Kerala State Pollution Control Board for 2 secondary crusher units, only one machine was

actually used by them. The assessing authority on receipt of the application visited the site and made enquiries and after having satisfied that the petitioner was eligible for payment of compounded tax as shown in the application, the officer granted permission for payment of compounded tax U/s. 8(b) of the KVAT Act which clearly reveals that the liability to pay tax is on the single secondary machine used during the year 2012-13.

Though they had obtained permission to install two secondary crushing units from the Kerala State Pollution Control Board, only a single secondary crushing unit was installed and used since the commencement of the business. The second crushing unit was installed during the year 2015-16 only. Accordingly they had obtained permission to pay compounded tax for the two crushing units U/s. 8(b) of the KVAT Act during the year 2015-16 from the assessing authority and paid tax accordingly. The power consumption in the crusher unit is half of the average power consumed during the year 2015-16 as detailed below.

Year	Total H.P.	Average Unit p/m	Unit per H.P
2009-10	98 HP	3611.75 Kwh	53.11 Kwh
2010-11	98 HP	3388.33 Kwh	49.82 Kwh
2011-12	98 HP	3197.50 Kwh	47.02 Kwh
2012-13	98 HP	3468.68 Kwh	51.01 Kwh
2013-14	98 HP	3359.75 Kwh	49.40 Kwh
2015-16	120 HP	12617.42 Kwh	105.14 Kwh

The comparative details shows they were using a single crusher unit during the years 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 till 2015-16. The dealer has also submitted the records collected from KSEB (Copy of the comparative Electrical power consumption of M/s. Baniyas Granite Industries, Kadampuzha (Consumer No. 11774 KSEB, Kadampuzha) for the relevant years) to establish his explanation.

On verification of the reply and connected records produced, assessing authority has reported that he is convinced that the dealer has installed and used a single secondary machine of



size II for the year 2012-13 as reported and compounded. Further the average monthly consumption for the year 2012-13 is only 3468.68 Kwh. The statement furnished by the dealer shows consumption at the rate of 105.14 Kwh for 2015-16 where as it is only 51.01 Kwh is for 2012-13 which is not sufficient to operate two secondary machine of size II.

#### **2013-14**

A Pre-assessment notice U/s. 25(1) was issued to M/s. Baniyas Granites, Kadampuzha, proposing to reject the return and accounts and to complete the assessment estimating the turnover suppression of one non conceded size II secondary machine. On receipt of the above notice the dealer filed the following objections.

They had used a single secondary metal crusher unit and applied for permission to pay compound tax U/s. 8(b) of the KVAT Act for the year 2013-14. Accordingly the assessing authority has granted permission to pay compounded tax @ Rs.1,60,000/- in order in Form No. 1E. Eventhough the dealer had obtained permission from the Kerala State Pollution Control Board for 2 secondary crusher units only one machine was actually used. The assessing authority on receipt of the application visited the site and made enquiries and after having satisfied that the petitioner was eligible for payment of compounded tax as shown in the application, the officer granted permission for payment of compounded tax U/s. 8(b) of the KVAT Act and this reveals that the liability to pay tax is on the the single secondary machine used during the year 2013-14.

Though they had obtained permission to install two secondary crushing units from the Kerala State Pollution Control Board, only a single secondary crushing unit was installed and used since the commencement of the business. The second crushing unit was installed during the year 2015-16 only. Accordingly they had obtained permission to pay compounded tax for the two crushing units U/s. 8(b) of the KVAT Act during the year 2015-16 from the assessing authority and paid tax accordingly. The power consumption in the crusher unit is half of the average power consumed during the year 2015-16 as detailed below.

Year	Total H.P.	Average	Unit per H.P
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				<b>Unit p/m</b>	
2009-10	98 HP	3611.75 Kwh	53.11 Kwh		
2010-11	98 HP	3388.33 Kwh	49.82 Kwh		
2011-12	98 HP	3197.50 Kwh	47.02 Kwh		
2012-13	98 HP	3468.68 Kwh	51.01 Kwh		
2013-14	98 HP	3359.75 Kwh	49.40 Kwh		
2015-16	120 HP	12617.42 Kwh	105.14 Kwh		

The comparative details reveals they were using a single crusher unit during the years 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 till 2015-16.

The dealer has also submitted the records collected from KSEB(Copy of the comparative Electrical power consumption of M/s.Baniyas Granite Industries, Kadampuzha (Consumer No.11774 KSEB, Kadampuzha)) for the relevant years to establish his explanation.

On verification of the reply and connected records produced, assessing authority has reported that he is convinced that the dealer has installed and used a single secondary machine of size II for the year 2013-14 as reported and compounded. Further the average monthly consumption for the year 2013-14 is only 3359.75 Kwh. The statement furnished by the dealer shows consumption at the rate of 105.14 Kwh for 2015-16 where as it is only 49.40 Kwh is for 2013-14 which is not sufficient to operate two secondary machine of size II.

Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.2</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/ Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>2. Vikas Granites (32100463812)</u></b> <b><u>2010-11 to 2013-14</u></b> <b><u>CTO, Manjeri</u></b></p> <p><b><u>2010-11</u></b> Assessment completed Vide order No.32100473812/2010-11 dated 06-10-2016. Demand:Rs.1,30,000/-(VAT), Interest:Rs.66,963/-, Cess:Rs.1,300/-, Total:Rs.1,98,263/-. Appeal against the assessment order was dismissed as per order No.TA(VAT)Nos.679/18, 680/18, 681/18, &amp; 682/18 dated 10-02-2021 of the Appellate Tribunal Additional Bench, Kozhikkode.</p> <p><b><u>2011-12</u></b> Assessment Completed Vide order No.32100473812/2011-12 dated 06-10-2016. Demand:Rs.1,80,000(VAT), Interest:Rs.70,902/-, Cess:Rs.1,800/-, Total:Rs.2,52,702/-. Appeal against the assessment order was dismissed as per order No.TA (VAT)Nos.679/18, 680/18, 681/18 &amp; 682/18 dated 10-02-2021 of the Appellate Tribunal Additional Bench, Kozhikkode.</p> <p><b><u>2012-13</u></b> Assessment Completed vide order No. 32100473812/2012-13 dated 06-10-2016. Demand:Rs.1,60,000/-(VAT), Interest:Rs.57,600/-, Total:Rs.2,17,600/-. Appeal against the assessment order was dismissed as per order No.TA (VAT)Nos.679/18, 680/18, 681/18 &amp; 682/18 dated 10-02-2021 of the Appellate Tribunal Additional Bench, Kozhikkode.</p> <p><b><u>2013-14</u></b> Assessment Completed vide order No. 32100473812/2013-14 dated 06-10-2016. Demand:Rs.2,00,000/-(VAT), Interest:Rs.30,000/- Total:Rs.2,30,000/- Appeal against the assessment order was dismissed as per order No.TA (VAT)Nos.679/18, 680/18, 681/18 &amp; 682/18 dated, 10-02-2021 of the Appellate Tribunal Additional Bench, Kozhikkode.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.3</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>3. Cresnet Granites Industries (32100471707)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Manjeri</u></b></p> <p><b><u>2009-10</u></b> Assessing authority completed the assessment based on the certificate issued by the Pollution control board regarding the machine size. Assessment completed vide order No. 32100471707/2009-10 dated 03-10-2016. Demand:Rs.2,75,000/-(VAT), Cess:Rs.2,750/- Interest:Rs.2,14,500/-, Total:Rs.4,92,250/-. The Honourable Appellate Tribunal allowed the appeal in favour of the dealer and set aside the assessment order for the year 2009-10 to 2013-14 vide order No.622/18, 623/18, 624/18, 625/18 &amp; 626/18 dated 29-10-2019. The Hon'ble Appellate Tribunal found that Pollution control board has subsequently revised that certificate allowing the assessee's contentions. Hence the Hon'ble Appellate Tribunal set aside the assessment order. Considering above aspects the audit objection raised is not sustainable and is hence liable to be dropped.</p> <p><b><u>2010-11</u></b> Assessing authority completed the assessment based on the certificate issued by the Pollution control board regarding the machine size. Assessment completed vide order No. 32100471707/2010-11 dated 03-10-2016. Demand:Rs.1,80,000/-(VAT), Cess:Rs.1,800/-, Interest:Rs.1,18,800/- Total:Rs.3,00,600/-. The Honourable Appellate Tribunal allowed the appeal in favour of the dealer and set aside the assessment order for the year 2009-10 to 2013-14 vide order No.622/18, 623/18, 624/18, 625/18 &amp; 626/18 dated 29-10-2019. The Hon'ble Appellate Tribunal found that Pollution control board has subsequently revised that certificate allowing the assessee's contentions. Hence the Hon'ble Appellate Tribunal set aside the assessment order. Considering above aspects the audit objection raised is not sustainable and is hence liable to be dropped.</p>

		<p><b><u>2011-12</u></b></p> <p>Assessing authority completed the assessment based on the certificate issued by the Pollution control board regarding the machine size. Assessment completed vide order No. 32100471707/2011-12 dated 03-10-2016. Demand:Rs.1,80,000/-(VAT), Cess:Rs.1,800/-, Interest:Rs.97,200/-, Total:Rs.2,79,000/-. The Honourable Appellate Tribunal allowed the appeal in favour of the dealer and set aside the assessment order for the year 2009-10 to 2013-14 vide order No.622/18, 623/18,624/18,625/18 &amp; 626/18 dated 29-10-2019. The Hon'ble Appellate Tribunal found that Pollution control board has subsequently revised that certificate allowing the assessee's contentions. Hence the Hon'ble Appellate Tribunal set aside the assessment order. Considering above aspects the audit objection raised is not sustainable and is hence liable to be dropped.</p> <p><b><u>2012-13</u></b></p> <p>Assessing authority completed the assessment based on the certificate issued by the Pollution control board regarding the machine size. Assessment completed vide order No. 32100471707/2012-13 dated 03-10-2016. Demand:Rs.2,00,000/-(VAT), Interest:Rs.84,000/- Total:Rs.2,84,000/-. The Honourable appellate tribunal allowed the appeal in favour of the dealer and set aside the assessment order for the year 2009-10 to 2013-14 vide order No.622/18, 623/18,624/18,625/18 &amp; 626/18 dated 29-10-2019. The Hon'ble Appellate Tribunal found that Pollution control board has subsequently revised that certificate allowing the assessee's contentions. Hence the Hon'ble Appellate Tribunal set aside the assessment order. Considering above aspects the audit objection raised is not sustainable and is hence liable to be dropped.</p> <p><b><u>2013-14</u></b></p> <p>Assessing authority completed the assessment based on the certificate issued by the Pollution control board regarding the machine size. Assessment Completed vide Order No. 32100471707/2013-14 dated 03-10-2016.</p>
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		<p>Demand:Rs.2,00,000(VAT), Interest:Rs.60,000/-,  Total:Rs.2,60,000/-. The Honourable Appellate Tribunal allowed the appeal in favour of the dealer and set aside the assessment order for the year 2009-10 to 2013-14 vide order No.622/18, 623/18,624/18,625/18 &amp; 626/18 dated 29-10-2019. The Hon'ble Appellate Tribunal found that Pollution control board has subsequently revised that certificate allowing the assessee's contentions. Hence the Hon'ble Appellate Tribunal set aside the assessment order. Considering above aspects the audit objection raised is not sustainable and is hence liable to be dropped.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.4</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>4. Kohinoor Granite Industries (32100452998)</u></b> <b><u>2009-10</u></b> <b><u>CTO, Manjeri</u></b></p> <p>Assessment Completed as per Order No 32100452998/2009-10 dated 01-11-2016 Demanding tax: Rs.3,16,996/-, Interest:Rs.2,51,988/-, Cess:Rs.1,976/- Total Rs.5,70,960/-. Appeal allowed in favour of the dealer as per order No. KVATA No.24/17 dated 30-07-2019 of AC Appeals, Malappuram.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.5	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>5. Feroz Granites Industries (32100432625)</u></b>  <b><u>2010-11 to 2013-14</u></b>  <b><u>CTO, Manjeri</u></b></p> <p><b><u>2010-11</u></b>  Assessment completed Vide order No.32100432625/10-11 dated 08-09-2016. Demand:Rs.2,10,000(Tax), Interest:Rs.1,37,865/-, Cess:Rs.2,100/- Total:Rs.3,49,965/-  Appeal allowed in favour of the dealer as per order No. KVATA No.928/16 dated 30-06-2017 of AC Appeals, Malappuram.</p> <p><b><u>2011-12</u></b>  Assessment completed as per Order No. 32100432625/2011-12 dated 08-09-2016. Demand:Tax Rs.2,10,000/- Interest:Rs.1,12,413/-, Cess:Rs.2,100/- Total:Rs.3,24,513/-. Appeal allowed in favour of the dealer as per order No.KVATA No.929/16 dated 30-06-2017 of AC Appeals, Malappuram.</p> <p><b><u>2012-13</u></b>  Assessment Completed as per Order No.32100496053/12-13 dated 08-09-2016. Demand:Tax:Rs.2,40,000/- ,Interest:Rs.98,400 /- Total:Rs.3,38,400/-. Appeal allowed in favour of the dealer as per order No.KVATA No.930/16 dated 30-06-2017 of AC Appeals, Malappuram.</p> <p><b><u>2013-14</u></b>  Assessment Completed as per Order No.32100496053/13-14 dated 08-09-2016. Appeal allowed in favour of the dealer as per order No.KVATA No.931/16 dated 30-06-2017 of AC Appeals Malappuram.</p>



Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.6	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/ Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>6. Al-Madeena Metals and cement industries (32100490315) 2009-10 to 2012-13 CTO, Manjeri</u></b></p> <p><b><u>2009-10</u></b> Assessment completed as per order No.32100490315/09-10 dated 24-10-2016. Demand Tax:Rs.4,50,000/-(VAT), Interest:Rs.3,45,420/-, Cess:Rs.4,500/- Total:Rs.7,99,920/-. Appeal allowed in favour of the dealer vide Appeal No. KVATA No.891/16 dated 08-03-2017 of AC Appeal, Malappuram.</p> <p><b><u>2010-11</u></b> Assessment completed as per order No.32100490315/2010-11 dated 08-09-2016. Demand Tax:Rs.4,20,000 (VAT), Interest:Rs.2,71,488/-, Cess:Rs.4,200/- Total:Rs.6,95,688/-. Appeal allowed in favour of the dealer vide appeal no. KVATA No.892/16 dated 08-03-2017 of AC Appeal, Malappuram.</p> <p><b><u>2011-12</u></b> Assessment completed as per order No. 32100490315/2011-12 dated 08-09-2016. Demand Tax: Rs.4,20,000/-(VAT), Interest:Rs.2,20,584/-, Cess:Rs.4,200/- Total:Rs.6,44,784/-. Appeal allowed in favour of the dealer vide appeal no.KVATA No.893/16, dated 08-03-2017 of AC Appeal, Malappuram.</p> <p><b><u>2012-13</u></b> Assessment completed as per order No. 32100490315/2012-13 dated 08-09-2016. Demand Tax: Rs.4,80,000/-(VAT), Interest:Rs.1,92,000/- Total: Rs.6,72,000/-. Appeal allowed in favour of the dealer vide appeal no.KVATA No.28/17 dated 08-03-2017 of AC Appeal, Malappuram.</p> <p>M/s. Al- Madeena Metals and Cement Industries E.P.9/386 to 391, Thuvvakkad, Edavanna, Pannippara. PO, opted to</p>

		<p>pay at the compounded rate under section 8(b) of KVAT Act 2003. As per the records maintained at Kerala State Pollution Control Board, the dealer had the consent to operate two secondary Crusher of 40 HP each and one Primary Crusher of 100 HP, vide consent number PCB/CO/CR-1/109/2009 Dated 11/08/2009. The assessing authority assessed the dealer under section 25A of the Act for the years 2009-10, 2010-11, 2011-12 &amp; 2012-13 vide orders 32100490315/2009-10 dated 24/10/2016, 32100490315/2010-11 dated 08/09/2016, 32100490315/2011-12 dated 08/09/2016, 32100490315/2012-13 dated 08/09/2016 respectively, on the basis of his findings that the dealer had irregularity using the size III secondary crushing machines where as he had disclosed size II secondary crushing machines and there by paying compounded tax under section 8(b) of the Act on size II machines instead of size III machines.</p> <p>The original Assessment Order for the year 2009-10, 2010-11, 2011-12 and 2012-13 was set aside by the Assistant Commissioner (Appeal), Malappuram Malappuram, vide KVATA Appeal no. 891/2016, 892/2016, 893/2016, and 028/2016 dated 08.03.2017, by stating that, there is no material evidence to conclude that the dealer used size-III Crushing Machine for the above years on the basis of following findings.</p> <ol style="list-style-type: none"> <li>1. The Assistant Commissioner (Appeal), Malappuram finds that the assessing authority is correct to find that the appellant has the consent to operate two Secondary Crusher Machines of 40HP each and Primary Crusher of 100HP vide consent number PCB/CO/CR-1/109/2009 of Kerala Pollution Control Board. The appellant also admits this. It is also true that the Board did not mention the size of the Machines to be operated but mentioned only the power of machine</li> <li>2. The finding of the assessing authority that secondary crusher with more than 30HP would fall under size-III is irrelevant, when it comes to the payment of compounded tax under section 8(b) because the only yardstick to decide the compounding rate under the aforesaid section is the jaw size of the machine.</li> <li>3. Further the assessing appellate authority finds that, it is factually correct that the consent letter given by the Kerala</li> </ol>
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		<p>Pollution control Board does not mention the size of crushing machine as size III. Therefore, the reliance on aforesaid consent letter to decide the size of machine, by that very fact, is flawed.</p> <p>4. In the assessment order, the assessing authority mentions that "a joint verification was conducted at the firm by SRA Review Party with Intelligence Squad IV Malappuram on 23.06.2016. It was noticed that the unit has equipped with two Size III Secondary Crusher. Hence it was evident that the assessee had underreported the size of the secondary crusher as size II instead of size III". This finding is not having a good logic since the appellant had already reported and conceded the use of size III machines from the year 2013-14 onwards and payment of compounded tax was on that basis. In fact, the use of size III machine, noticed on the joint verification conducted during 2016-17, could not be termed as findings since it is not at the first time the use of such size III machine came to the knowledge of the assessing authority.</p> <p>5. On the examination the complete facts with regard to the impugned order, it is not clear that on what basis the assessing authority could reach at a conclusion that the appellant was using size III machines during periods of the impugned assessment viz. 2009-10, 2010-11, 2011-12 &amp; 2012-13. No coherent arguments were put forth by the assessing authority towards the presumption of using size III machine during the periods of impugned assessment. No evidence is seen to prove the use of size III machines during the impugned assessment periods. The most important fact is that the payment of compounded tax was completely in accordance the stipulations provided under section 8(b) of the Act.</p>
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Para No.	Gist of the Case	Present Position
<b>2.6.1 Sl.No.7</b>	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/ Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>7. Crescent Granite Industries (32100471707)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, Manjeri</u></b></p> <p><b><u>2009-10</u></b>  Assessment completed as per Order No. 32100471707/2009-10 dated 03-10-2016. Demand Tax: Rs.2,75,000/-(VAT), Interest:Rs.2,77,750/- Cess:Rs.2,750/- Total:Rs.4,92,250/-. The Hon'ble Appellate Tribunal allowed the appeal in favour of the dealer set aside the assessment orders for the year 2009-10 to 2013-14 vide order No.622/18, 623/18, 624/18, 625/18, 626/18 dated 29-10-2019. The Hon'ble Appellate Tribunal found that Pollution control board has subsequently revised that certificate allowing the assessee's contentions. Hence the Hon'ble Appellate Tribunal set aside the assessment order. Considering above aspects the audit objection raised is not sustainable and is hence liable to be dropped.</p> <p><b><u>2010-11</u></b>  Assessment Completed as per order No.32100471707/2010-11 dated 03-10-2016. Demand Tax:Rs.1,80,000/-(VAT), Interest:Rs.1,18,800/- Cess:Rs.1,800/- Total:Rs.3,00,600/-. The Hon'ble Appellate Tribunal allowed the appeal in favour of the dealer and set aside the assessment orders for the year 2009-10 to 2013-14 vide order No. 622/18, 623/18, 624/18, 625/18, 626/18 dated 29-10-2019. The Hon'ble Appellate Tribunal found that Pollution control board has subsequently revised that certificate allowing the assessee's contentions. Hence the Hon'ble Appellate Tribunal set aside the assessment order. Considering above aspects the audit objection raised is not sustainable and is hence liable to be dropped.</p> <p><b><u>2011-12</u></b>  Assessment completed as per order No. 32100471707/2011-12 dated 03-10-2016. Demand Tax: Rs.1,80,000/-(VAT), Interest:Rs.97,200/-, Cess:Rs.1,800/- Total:Rs.2,79,000/-. The Hon'ble Appellate Tribunal allowed the appeal in favour of the dealer and set aside the</p>

	<p>assessment orders for the year 2009-10 to 2013-14 vide order No.622/18, 623/18, 624/18, 625/18, 626/18 dated 29-10-2019. The Hon'ble Appellate Tribunal found that Pollution control board has subsequently revised that certificate allowing the assessee's contentions. Hence the Hon'ble Appellate Tribunal set aside the assessment order. Considering above aspects the audit objection raised is not sustainable and is hence liable to be dropped.</p> <p><b><u>2012-13</u></b></p> <p>Assessment completed as per order No. 32100471707/2012-13 dated 03-10-2016. Demand Tax: Rs.2,00,000/- (VAT), Interest:Rs.84,000/- Total:Rs.2,84,000/-. The Hon'ble Appellate Tribunal allowed the appeal in favour of the dealer and set aside the assessment order for the year 2009-10 to 2013-14 vide order No.0622/18, 623/18, 624/18, 625/18, 626/18 dated 29-10-02019. The Hon'ble Appellate Tribunal found that Pollution control board has subsequently revised that certificate allowing the assessee's contentions. Hence the Hon'ble Appellate Tribunal set aside the assessment order. Considering above aspects the audit objection raised is not sustainable and is hence liable to be dropped.</p> <p><b><u>2013-14</u></b></p> <p>Assessment Completed as per order No. 32100471707/2013-14 dated 03-10-2016. Demand Tax: Rs.2,00,000/-(VAT), Interest:Rs.60,000/- Total:Rs.2,60,000/-. The Hon'ble Appellate Tribunal allowed the appeal in favour of the dealer set aside the assessment orders for the year 2009-10 to 2013-14 vide order No.622/18, 623/18, 624/18, 625/18, 626/18 dated 29-10-2019. The Hon'ble Appellate Tribunal found that Pollution control board has subsequently revised that certificate allowing the assessee's contentions. Hence the Hon'ble Appellate Tribunal set aside the assessment order. Considering above aspects the audit objection raised is not sustainable and is hence liable to be dropped.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.8</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>8. Chengot Stone Crusher (32100402734)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO. Manjeri</u></b></p> <p><b><u>2009-10</u></b> Assessment completed as per order No. 32100402734/2009-10 dated 02-02-2017. Demand Tax:Rs.3,36,797/-(VAT), Interest:Rs.2,79,813/-, Cess:Rs.4,438/- Total:Rs.6,21,048/-. Appeal against the assessment order for the year 2009-10 was allowed in favour of the dealer as per the order No.151/2017 dated 22/05/2017 of AC Appeals, Malappuram. The AC (Appeal) "ALLOWED" the appeal and observed that "the second machine purchased on 03/11/2010 as per invoice No.265 of the Parishram industries Co-op society . This machine was erected and started to operate during May 2011. The appellant produced the purchase bill of the machine, On verification of the documents, it is clear that second machine in question was purchased during 2010-11. It is clear that the assessing authority could not present any evidence affirmatively that the aforesaid machinery purchased as per the invoice No.265 dated 3-11-2010 was put to use in the year 2010-11 itself. Therefore appellate authority found that there cannot be any reasonable presumption that the appellant was using the two numbers of machines and hence there is no reason for reopening of the assessment under section 25(A) against the appellant. Therefore, appeal is allowed in favour of the appellant setting aside the impugned assessment orders".Hence the audit objection raised is unsustainable and liable to be dropped.</p> <p><b><u>2010-11</u></b> Assessment completed as per order No. 32100402734/2010-11 dated 02-02-2017. Demand Tax: Rs.3,20,000/-(VAT), Interest:Rs.2,03,616/-, Cess:Rs.3,200/-,Total:Rs.5,26,816/-. Appeal against the assessment order for the year 2010-11 was allowed in favour of the dealer as per the order No.152/2017 dated 22/05/2017 of AC Appeals, Malappuram.</p>

		<p>The AC (Appeal) "ALLOWED" the appeal and observed that "the second machine purchased on 03/11/2010 as per invoice No.265 of the Parishram industries Co-op society . This machine was erected and started to operate during May 2011. The appellant produced the purchase bill of the machine, On verification of the documents, it is clear that second machine in question was purchased during 2010-11. It is clear that the assessing authority could not present any evidence affirmatively that the aforesaid machinery purchased as per the invoice No.265 dated 3-11-2010 was put to use in the year 2010-11 itself. Therefore appellate authority found that there cannot be any reasonable presumption that the appellant was using the two numbers of machines and hence there is no reason for reopening of the assessment under section 25(A) against the appellant. Therefore, appeal is allowed in favour of the appellant setting aside the impugned assessment orders".Hence the audit objection raised is unsustainable and liable to be dropped.</p> <p><b><u>2011-12</u></b> Assessment completed as per order No. 32100402734/2011-12 Dated 02-02-2017. Demand Tax: Rs.2,10,000(VAT), Interest:Rs.1,08,171/-, Cess:Rs.2,100/- Total:Rs.3,20,271/-. Appeal against the assessment order for the year 2011-12 was dismissed by the AC appeal, Malappuram vide order No.153/2017 dated 22-05-2017.</p> <p><b><u>2012-13</u></b> Assessment completed as per order No. 32100402734/2012-13 dated 02-02-2017. Demand Tax: Rs.2,55,000/-(VAT), Interest:Rs.99,450/-, Total:Rs.3,54,450/-. Appeal against the assessment order for the year 2012-13 was dismissed by the AC appeal, Malappuram vide order No.154/2017 dated 22-05-2017.</p> <p><b><u>2013-14</u></b> Assessment completed as per order No. 32100402734/2013-14 Dated 02-02-2017. Demand Tax: Rs.2,55,000/-(VAT), Interest:Rs.68,850/-, Total:Rs.3,23,850/-. Appeal against the assessment order for the year 2013-14 were dismissed by the AC appeal,</p>
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		<p>Malappuram vide order No.155/2017 dated 22-05-2017.</p> <p>Appeal filed by the assessee against the assessment order for the year 2011-12 to 2013-14 were dismissed as per the order No. 153,154 &amp; 155/2017 dated 22/05/2017 of AC Appeals Malappuram. Subsequently dealer filed 2<sup>nd</sup> appeal before Honorable Appellate Tribunal. This second appeal was allowed in favour of appellant as per Order No. TA(VAT) Nos.585/2018,586/2018 &amp; 587/2018 dtd 26-03-2024. Later Proposal was given for filing of OT Revision submitted by the assessing authority through proper channel dated 31.05.2024 against the order in TA(VAT) Nos.585/2018,586/2018 &amp; 587/2018 dtd 26-03-2024. A legal opinion has been received dated 02.07.2024 from Government Pleader stating that there is no scope for the proposal for filing revision. Hence the order of the Hon'ble Tribunal has become final.</p> <p>The Hon'ble Tribunal found that contrary to regular method of tax payment, the compounding system envisages different mode to fix the liability and the permissions given by the assessing authority presupposes that the disclosures made in the compounding application regarding the particulars contained therein like the number, capacity, jaw size and the purpose for which the machine is put to use are verified and approved from time to time. The subsequent disputed revelation by AG and Department team in 2017 cannot be extended to penalize the assessee for the previously settled years unless there exists some material which unequivocally suggest so. Hon'ble Tribunal further observed that there is nothing on record to support the reasons given for re-opening the assessment. Hence the appeal by the assessee was allowed and the assessment order was set aside. Considering above aspects the audit objection raised is not sustainable and hence it is liable to be dropped.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.9</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>9. Marva Metals (32100780892)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Perinthalmanna</u></b></p> <p><b><u>2009-10</u></b> Assessment completed for the year 2009-10 vide order no.32100780892/2009-10 dated 27-06-2016 creating an additional demand of Rs.10,38,786/- and dealer opted Amnesty Scheme and paid.</p> <p><b><u>2010-11</u></b> Assessment complete as per vide order No.32100780892/2010-11 dated 27-06-2016 creating an additional demand of Rs.7,29,018/- and dealer opted Amnesty Scheme and paid. Amnesty Scheme opted for the year 2009-10 &amp; 2010-11 and paid Rs.2,45,100/- as per Chalan No. KL006656873201718M dated 09/10/2017 and Rs.2,45,100 as per KL007598379201718M dated 07/11/2017 .</p> <p><b><u>2011-12</u></b> Assessment completed for the year 2011-12 vide order no.32100780892/2011-12 Dated 27-06-2016 creating an additional demand of Rs.7,29,018/- and dealer paid Rs. 59,519/- .</p> <p><b><u>2012-13</u></b> Assessment completed for the year 2012-13 vide order no.32100780892/2012-13 Dated 27-06-2016 creating an additional demand of Rs.8,09,688/- and dealer paid Rs. 1,91,520/- .</p> <p><b><u>2013-14</u></b> Assessment completed for the year 2013-14 vide order no.32100780892/2013-14 creating an additional demand of Rs.23,41,800/- and the dealer paid Rs.2,88,000/- . Under RR by IAC. The Hon'ble High Court of Kerala set aside the orders for the year 2011-12 to 2013-14 for fresh disposal as per WP</p>

		<p>(C)No.30407 of 2016 dated 09.09.2016. As per direction of the Hon'ble High Court of Kerala, the assessment for the year 2011-12, 2012-13 and 2013-14 has been completed as per order No.32100780892/2011-12 to 2013-14 dated 18.03.2017.</p> <p>Assessment details are as follows:</p> <p><b><u>2011-12</u></b>  Tax : Rs.1,81,800/-  Interest : Rs.1,15,794/-  Penalty : Rs.3,63,600/-</p> <p><b><u>2012-13</u></b>  Tax : Rs.2,70,000/-  Interest : Rs.1,06,800/-  Penalty : Rs.5,40,000/-</p> <p><b><u>2013-14</u></b>  Tax : Rs.7,20,000/-  Interest : Rs.2,37,600/-  Penalty : Rs.14,40,000/-</p> <p>The case is under RR. The dealer has paid 20% of the tax for stay.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.10	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPC B/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>10. Karipur Granite Industries (32100635406)</u></b>  <b><u>2009-10, 2012-13 &amp; 2013-14</u></b>  <b><u>CTO, Thirurangadi</u></b></p> <p><b><u>2009-10</u></b>  Based on the Audit objection the assessment for the year 2009-10 was completed as per Order No.32100635406/2009-10,dt.28.09.2016 by the Commercial Tax officer, Tirurangadi creating an additional Demand of Rs.7,64,065/-(Tax Rs.4,25,000,Interest Rs.3,34,815 &amp; Cess Rs.4250/-). A separate penalty Order U/s.67(1) of the KVAT Act was also issued imposing a penalty of Rs.8,58,500/-. The DC(Appeals-1), Kozhikode has modified the Penalty Order as per KVATA No.2047/17, dt.09.02.2018 on the following Grounds.</p> <p>The dealer was using only one crusher during the year 2009-10 and not two machines. Out of the two machines that the inspection team saw on 23.06.2016, one machine of 20 x 12 size was purchased and put to use during 2016-17. The dealer had produced a notarised agreement ,dt.17.04.2016 by which the dealer purchased the same from M/s.Arimbra Nirappel Crusher.</p> <p>The other machine was one secondary crusher of size II (16 x 10) which was used by the dealer from 2007-08 onwards. During the year 2007-08 the Intelligence Officer, Kottakkal Squad inspected the place of business and prepared SIR on 25.10.2007 was convinced that there was only one machine during the year 2007-08, which was the small.</p> <p>The evidence available on the records shows that there was only one machine during 2007-08 onwards and the first addition was during the year 2016-17 only and these two machines were seen by the inspection team on 23.06.2016 . There is no direct evidence to show that the dealers unit was equipped with two crushers in 2009-10. Hence the penalty imposed on that count, usage of two machines is not sustainable and it was ordered accordingly.</p> <p>However there had been a misclassification of the conceded secondary crusher as size- I against actual size II resulting in a payment of lesser tax of Rs.125000/- (150000-125000) and</p>

		<p>cess Rs.1250/- totaling to Rs.126250/-</p> <p>The dealer had opted Amnesty scheme 2019-20 and the penalty was completely waived.</p> <p>The dealer filed Appeal against the assessment order for the Assistant Commissioner(Appeals), Malappuram. The Assistant Commissioner (Appeals), Malappuram in KAVATA No.179/2018, dt.31.08.2018 directed to modify the assessment complying with the findings of the Deputy Commissioner (Appeals), Kozhikode in Order No.KAVATA No.2047/17, dt.09.07.2018. Hence the assessment was modified as per Order No.32100635406/2009-10, dt.25.11.2019 by the Commercial Tax Officer, Tirurangadi. The modified amount of Tax was Rs.1,26,250/- and Interest was Rs.1,03,525/- Tax paid under RR on 20.01.2017 Rs.152813/- vide Challan No.KL004784548201617M, Sub Treasury Tirurangadi. Excess amount of Rs.26563/- adjusted to interest. Balance interest Rs.76962/-. The dealer opted amnesty scheme 2019-20 and full interest waived.</p> <p><b><u>2012-13</u></b></p> <p>Assessment for the year 2012-13 has been completed as per the order No.32100635406/2012-13 dated 24.10.2016 an additional demand created of Rs.5,11,200/-(Tax: Rs.3,60,000/-, Interest:Rs.1,51,200/-). A separate penalty order u/s.67(1) of the KVAT Act imposing a penalty of Rs.7,20,000/-. The DC (Appeals-1), Kozhikode has modified the penalty order as per KVATA No-2048/17 dated 09-02-2018. Hence dealer opted amnesty scheme 2019-20 and penalty completely waived. Dealer filed appeal against the assessment order before Assistant Commissioner(Appeals), Malappuram. Appeal modified as per order No.KVATA.179/18, 180/2018, 181/2018 dated 31.08.2018. Order modified as per order No.32100635406/2012-13 dated 25.11.2019 and modified amount of Tax: Rs.60,000/-, Interest: Rs.27,600/-. Tax paid under RR on 20.01.2017 Rs.1,02,240/- vide ch No.KL004784731201617M, Sub Treasury, Tirurangadi. Excess amount of Rs.27,600/- adjusted to interest. Balance excess amount Rs.14,640/-.</p> <p><b><u>2013-14</u></b></p> <p>Assessment for the year 2013-14 has been completed as per the order No.32100635406/2013-14 dated 24.10.2016 an</p>
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		<p>additional demand created of Rs.4,68,000/-(Tax: Rs.3,60,000/-, Interest:Rs.1,08,000/-). A separate penalty order u/s.67(1) of the KVAT Act imposing a penalty of Rs.7,20,000/-. The DC (Appeals-1), Kozhikode has modified the penalty order as per KVATA No-2049/17 dated 09-02-2018. Hence dealer opted amnesty scheme 2019-20 and penalty completely waived. Dealer filed appeal against the assessment order before Assistant Commissioner(Appeals), Malappuram. Appeal modified as per order No.KVATA.179/18, 180/2018, 181/2018 dated 31.08.2018. Order modified as per order No.32100635406/2013-14 dated 25.11.2019 and modified amount of Tax:Rs.60,000/-, Interest: Rs.20,400/-. Tax paid under RR on 20.01.2017 Rs.93,600/-vide ch No.KL004784899201617M, Sub Treasury, Tirurangadi. Excess amount of Rs.20,400/- adjusted to interest. Balance excess amount Rs.13,200/-.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.11	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>11. Gulfar Granites (32100662845)</u></b>  <b><u>2009-10 to 2012-13</u></b>  <b><u>CTO, Thirurangadi</u></b></p> <p><b><u>2009-10</u></b>  Assessment for the year 2009-10 has been completed as per the order No.32100662845/2009-10 dated 01/11/2016 an additional demand created Rs.4,04,505/- (Tax:Rs.2,25,000/-, interest:Rs.1,77,255/- and cess:Rs.2,250/-). A separate penalty order u/s.67(1) of the KVAT Act imposing a penalty of Rs.4,54,500. The DC (Appeals-1), Kozhikode has modified the penalty order. As per KVATA No-2074/17 dated 31.01.2018. Hence the penalty order have been modified vide order No.32100662845/2009-10 dated 21-03-2018. The dealer has been paid the modified penalty amount of Rs.1,51,500/- vide Chalan No.89598 dated 03.04.2018 of sub-Treasury, Tirurangadi.  Dealer has been paid tax amount of Rs.80,901/- vide Chalan No.004576717201617M dated 16.01.2017, Sub-Treasury, Tirurangadi and dealer filed Appeal against the assessment order before AC (Appeal), Malappuram. Appeal dismissed as per order No.KVATA-950/16, 951/16, 952/16, 953/16 dated 31.10.2017 and arrears are settled under amnesty scheme 2019-20 and 2020-21, installment granted and paid as under.  Balance amount they opted amnesty scheme 2019-20 installment granted  1.Paid Rs.24,392/- vide chalan No.KL0081952872019-20M/05.10.2019.  2.Paid Rs.24,392/- vide chalan No.KL0105013792019-20M/20.11.2019.  3.Paid Rs.24,392/- vide chalan No.KL0119297952019-20M/18.12.2019.  4.Paid Rs.24,362/- vide chalan No.KL0134793892019-20M/20.01.2020.  5.Paid Rs.24,392/- vide chalan No.KL01524222019-20M/25.02.20.  1.Paid Rs.9,755/- E-Chalan No.KL005520773202021E dated 30.07.2020 under amnesty 2020-21 40% of Tax and</p>

	<p>interest fully waived.</p> <p><b><u>2010-11</u></b></p> <p>The assessment completed vide order No. 32100662845/2010-11 dated 01.11.16 creating an additional demand of Rs.3,52,086(Tax:Rs.2,10,000/-, Int:Rs.1,39,986/-, Cess:Rs.2,100/-) and Penalty:Rs.4,24,200/-. Penalty modified as per order No. 2075/17 dated 31.01.18. Paid Rs.1,41,400/- Chalan No.89770/05.04.18 Sub Treasury, Tirurangadi.</p> <p>Paid Rs.70,417/- as per chalan No.004566295201617M/16.01.17 Sub Treasury, Tirurangadi. Balance amount they opted Amnesty Scheme 2019-20 only 5 installment paid in amnesty 2019-20, one installment opted amnesty 2020-21.</p> <p>1.Paid Rs.23,614/- vide chalan No.KL008195514201920M dated 5.10.19 Sub Treasury, Tirurangadi.</p> <p>2.Paid Rs.23,614/- vide chalan No.KL010501149201920M dated 20.11.19 Sub Treasury, Tirurangadi.</p> <p>3.Paid Rs.23,614/- vide chalan No.KL011929919201920M dated 18.12.19 Sub Treasury, Tirurangadi.</p> <p>4.Paid Rs.23,614/- vide chalan No.KL013479600201920M dated 20.01.19 Sub Treasury, Tirurangadi.</p> <p>5.Paid Rs.23,614/- vide chalan No.KL015242636201920M dated 25.02.20 Sub Treasury, Tirurangadi.</p> <p>6.Paid Rs.9,445/- E-Chalan No.KL005520773202021E dated 30.07.2020 under amnesty 2020-21 40% of Tax.</p> <p><b><u>2011-12</u></b></p> <p>The assessment completed vide order No. 32100662845/2011-12 dated 01.11.16 creating an additional demand of Rs.3,26,634/-(Tax:Rs.2,10,000/- Int:Rs.1,14,534/-, Cess:Rs.2,100/-) and Penalty Rs.4,24,200/-. Penalty modified as per order No.2076/17 dated 31.01.18. Paid Rs.1,41,400/- Chalan No.90006/05.04.18 Sub Treasury, Tirurangadi.</p> <p>Paid Rs.65,327/- as per chalan No.KL004565673201617M/16.01.17 Sub Treasury,</p>
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		<p>Tirurangadi. Balance amount they opted Amnesty Scheme 2019-20, 6 installment granted, only 5 installment paid in amnesty 2019-20, one installment opted amnesty 2020-21.</p> <p>1.Paid Rs.24,462/- vide chalan No.KL0081956922019-20M dated 05.10.19 Sub Treasury, Tirurangadi.</p> <p>2.Paid Rs.24,462/- vide chalan No.KL0105008412019-20M dated 20.11.19 Sub Treasury, Tirurangadi.</p> <p>3.Paid Rs.24,462/- vide chalan No.KL0119300512019-20M, dated 18.12.19 Sub Treasury, Tirurangadi.</p> <p>4.Paid Rs.24,462/- vide chalan No.KL0134799342019-20M dated 20.01.20 Sub Treasury, Tirurangadi.</p> <p>5.Paid Rs. 24,462/- vide chalan No.KL0152430492019-20M dated 25.02.20 Sub Treasury, Tirurangadi.</p> <p>6.Paid Rs.9,785/- Chalan No.KL0055207732021E dated 30.07.2020 under Amnesty 2020-21, 401% of Tax.</p> <p><b><u>2012-13</u></b></p> <p>Assessment for the year 2012-13 has been completed as per the order No.32100662845/2012-13 dated 01/11/2016 an additional demand created of Rs.3,40,800/- (Tax:Rs.2,40,000/- Interest:Rs.1,00,800/-). A separate penalty order u/s.67(1) of the KVAT Act imposing a penalty of Rs.4,80,000/-. The DC(Appeals-1), Kozhikode has modified the penalty order. As per KVATA No-2077/17 dated 31.01.2018. Hence the penalty order have been modified vide order No.32100662845/2012-13 dated 21-03-2018. The dealer has been paid the modified penalty amount of Rs.1,60,000/- Chalan No.90195 dated 03.04.2018 of sub-Treasury, Tirurangadi.</p> <p>Dealer has been paid tax amount of Rs.68,160/- vide Chalan No.004565395201617M dated 16.01.2017, Sub-Treasury, Tirurangadi and dealer filed Appeal against the assessment order before AC(Appeal), Malappuram. Appeal dismissed as per order No-KVATA-950/16, 951/16, 952/16, 953/16 dated 31.10.2017 and arrears are settled under amnesty scheme 2019-20 and 2020-21, instalment granted.</p> <p>Balance amount they opted amnesty scheme 2019-20 installment granted</p> <p>1.Paid Rs.28,640/- vide chalan No.KL0081958662019-20M dated 05.10.19 Sub Treasury, Tirurangadi.</p>
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Para No.	Gist of the Case	Present Position
<b>2.6.1</b> <b>Sl.No.12</b>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPC B/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>12. Ernad Cement &amp; Metals (32100624191)</u></b> <b><u>2012-13 to 2013-14</u></b> <b><u>CTO, Thirurangadi</u></b></p> <p><b><u>2012-13</u></b> Assessment for the year 2012-13 has been completed as per the order No.32100624191/2012-13 dated 17.12.2016 an additional demand created of Rs.11,52,000/-(Tax Rs.8,00,000/- Interest Rs.3,52,000/-). A separate penalty order u/s.67(1) of the KVAT Act imposing a penalty of Rs.16,00,000/- as per order No.32100624191/2012-13 dated 28.09.2017. The dealer filed appeal before the DC (Appeals-1), Kozhikode against the penalty order. DC (Appeals-1), Kozhikode has dismissed the appeal as per KVATA No-2061/2017 dated 05.04.2019. Hence the dealer opted amnesty scheme 2019-20 and the penalty amount completely waived. Dealer has been paid tax amount of Rs.1,60,000/- vide Chalan No.KL0037542022201718M dated 05.04.2017, Sub-Treasury, Moovattupuzha and dealer filed Appeal against the assessment order before AC (Appeal), Malappuram. Appeal dismissed as per order No-KVATA-212/2017 dated 31.08.2018 and balance amount they opted amnesty scheme 2019-20 instalment granted and full tax amount settled.</p> <p>1.Paid Rs.1,07,500/- vide chalan No.KL0071834002019-20M, dated 17.09.19 Sub Treasury, Tirurangadi. 2.Paid Rs.1,07,500/- vide chalan No.KL0089570802019-20M, dated 22.10.19 Sub Treasury, Tirurangadi. 3.Paid Rs.1,07,500/- vide chalan No.KL0110943242019-20M, dated 30.11.19 Sub Treasury, Tirurangadi. 4.Paid Rs.1,07,500/- vide chalan No.KL0120734172019-20M, dated 20.12.19 Sub Treasury, Tirurangadi. 5.Paid Rs.1,07,500/- vide chalan No.KL0136111342019-20M, dated 22.01.20 Sub Treasury, Tirurangadi. 6.Paid Rs.1,02,500/- vide chalan No.KL0153163192019-20M, dated 26.02.20 Sub Treasury, Tirurangadi. Interest fully waived under amnesty.</p> <p><b><u>2013-14</u></b> Assessment for the year 2013-14 has been completed as per</p>

	<p>the order No.32100624191/2013-14 dated 17.12.2016 an additional demand created of Rs.10,56,000/-(Tax Rs.8,00,000/- Interest Rs.2,56,000/-). A separate penalty order u/s.67(1) of the KVAT Act imposing a penalty of Rs.16,00,000/- as per order No.32100624191/2013-14 dated 28.09.2017. The dealer filed appeal before the DC (Appeals-1), Kozhikode against the penalty order. DC (Appeals-1), Kozhikode has dismissed the appeal as per KVATA No-2062/2017 dated 05.04.2019. Hence the dealer opted amnesty scheme 2019-20 and the penalty amount completely waived.</p> <p>Dealer has been paid tax amount of Rs.1,60,000/- vide Chalan No.KL003754242201718M dated 05.07.2017 Sub-Treasury, Moovattupuzha and dealer filed Appeal against the assessment order before AC (Appeal), Malappuram. Appeal dismissed as per order No.KVATA-213/2017 dated 31.08.2018 and balance amount they opted amnesty scheme 2019-20 installment granted and full tax amount settled.</p> <p>1.Paid Rs.1,07,500/- as per chalan No.KL007183773201920M/17.09.19 Sub Trasury, Tirurangadi.</p> <p>2.Paid Rs.1,07,500/- as per chalan No.KL008956650201920M/22.10.19 Sub Trasury, Tirurangadi.</p> <p>3.Paid Rs.1,07,500/- as per chalan No.KL011094487201920M/30.11.19 Sub Trasury, Tirurangadi.</p> <p>4.Paid Rs.1,07,500/- as per chalan No.KL012073260201920M/20.12.19 Sub Trasury, Tirurangadi.</p> <p>5.Paid Rs.1,07,500/- as per chalan No.KL013611352201920M/22.01.19 Sub Trasury, Tirurangadi.</p> <p>6.Paid Rs.1,02,500/- as per chalan No.KL015316628201920M/26.02.20 Sub Trasury, Tirurangadi.</p> <p>Interest fully waived under amnesty.</p>
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Para No.	Gist of the Case	Present Position						
2.6.1 Sl.No.13	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>13. Kavumkal Granites Pvt. Ltd.</u></b> <b><u>(32030962683)</u></b> <b><u>2010-11 to 2013-14</u></b> <b><u>AIT &amp; CTO, Ranni</u></b></p> <p>M/s.Kavumkal Granites (P) Ltd, Vadasserikkara is an assessee on the rolls of the AIT &amp; ST Office, Ranni with TIN. 32030962683. During the assessment years 2010-11, 2011-12, 2012-13 &amp; 2013-14 the assessee had opted compounding U/s.8(b) of the KVAT Act and the assessee remitted Rs.8,48,400/-, Rs.12,72,600/-, Rs.14,40,000/- and Rs.18,00,296/- for the years 2010-11, 2011-12, 2012-13 &amp; 2013-14 respectively.</p> <p>The accountant General's audit team collected certain details from Kerala State Pollution Control Board and Department of Mining &amp; Geology and they have forwarded a report pointing out 'short levy' in payment of compounded tax to the tune of Rs.81,78,912/- for the years as shown below.</p> <table><tr><td>2010-11 : Rs.19,34,352.00,</td></tr><tr><td>2011-12 : Rs.11,87,760.00,</td></tr><tr><td>2012-13 : Rs.12,28,800.00,</td></tr><tr><td>2013-14 : Rs.38,28,000.00,</td></tr><tr><td>.....</td></tr><tr><td>TOTAL : Rs.81,78,912.00.</td></tr></table> <p>On the basis of the findings by the team, the assessment had been completed for the above periods and the entire amount is advised for Revenue Recovery.</p> <p><b><u>2010-11</u></b></p> <p>Based on the audit objection the assessment for the year 2010-11 was completed as per the Order No. 32030962683/2010-11 dated 25.08.2016 U/s. 25(A) and creating additional demand of Rs.12,72,600/- as Tax and Rs.8,27,190/- as Interest and also imposed penalty of Rs.25,45,200/- U/s.67(1) of the KVAT Act 2003. Aggrieved by this order, the assessee preferred appeal before Deputy Commissioner(Appeals) Kollam and was stayed vide Order No. KVATA(PTA) 307/16, 308/16, 309/16, 310/16 dated 15.12.2016 by the Appellate</p>	2010-11 : Rs.19,34,352.00,	2011-12 : Rs.11,87,760.00,	2012-13 : Rs.12,28,800.00,	2013-14 : Rs.38,28,000.00,	.....	TOTAL : Rs.81,78,912.00.
2010-11 : Rs.19,34,352.00,								
2011-12 : Rs.11,87,760.00,								
2012-13 : Rs.12,28,800.00,								
2013-14 : Rs.38,28,000.00,								
.....								
TOTAL : Rs.81,78,912.00.								

		<p>Authority on condition that “the appellant remit 40% of the balance tax and interest demanded for the years 2010-11 to 2013-14. Against this order, the assessee approached the Hon’ble High Court and set aside the order of the DC(A) as per its judgement in WPC No. 1176/2017 dated 12.01.2017, also directed the assessee to remit 20% of tax for the years 2010-11 to 2013-14.</p> <p>The dealer had filed appeal before Assistant Commissioner(Appeals), Pathanamthitta against the orders issued demanding ‘short levy’ of tax and this appeal has been dismissed vide order No. KVATA(PTA) 307/16 dated 27.11.2017. Further, the assessee had filed appeal against ‘penalty imposed’ U/s 67(1) before the Deputy Commissioner(Appeals)II, Kollam and this appeal was ‘dismissed’ vide order No.KVATA(PTA) 89,88,87 &amp; 86/17(RP-72,73,74 &amp; 75/16 dated 31.03.2018. Later, the dealer approached the Hon’ble High Court of Kerala and the Hon’ble High Court granted interim stay as per its judgement in WP(C) No. 9267/2018(G) dated 19.03.2018 effecting ‘on all further proceedings of the Assistant Commissioner (Appeals), Pathanamthitta and the Commissioner of the State Taxes, Tax Tower, Karamana P.O, Thiruvananthapuram. Accordingly, the assessee remitted Rs.5,09,040/- towards penalty and 20% of tax amounting to Rs.2,54,520/-.</p> <p>Amnesty Scheme 2021 Opted for 2010-11 remitted Rs.1,69,680/- Chalan No.KL01549649820192020m dated 29.2.2020, Rs.7,15,238/- Chalan No.KL 02240626202122E dated 29.12.2021.</p> <p><b><u>2011-12</u></b></p> <p>Based on the audit objection the assessment has been completed as per the Order No. 32030962683/2011-12 dated 25.08.2016 U/s. 25(A) and creating additional demand of Rs.8,48,400/- as Tax and Rs.4,49,652/- as Interest and also imposed penalty of Rs.16,96,800/- U/s. 67(1) of the KVAT Act 2003.</p> <p>The assessee had filed appeal before Deputy Commissioner(Appeals) Kollam vide order No. KVATA(PTA) 307/16, 308/16, 309/16, 310/16 dated 15.12.2016, the Appellate Authority had directed that the cases are stayed if the appellant remit 40% of the balance</p>
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		<p>tax and interest demanded for the years 2010-11 to 2013-14. Against this order the dealer filed writ before the Hon,ble High Court and according to WPC No. 1176/2017 dated 12.01.2017, the Hon,ble High Court directed to remit 20% of tax for the years 2010-11 to 2013-14. The dealer had filed appeal before Assistant Commissioner (Appeals), Pathanamthitta against the proceedings demanding 'short levy' of tax U/s. 25(A) and this appeal has been dismissed vide order No. KVATA(PTA) 308/16 dated 27.11.2017. The assessee had filed appeal against 'penalty imposed' U/s 67(1) before the Deputy Commissioner(Appeals) II, Kollam and this appeal has been 'dismissed' vide order No. KVATA(PTA) 89,88,87 &amp; 86/17(RP- 72,73,74 &amp; 75/16 dated 31.03.2018. The assessee had filed second appeal against the order of the Deputy Commissioner (Appeals) II, Kollam before the Appellate Tribunal, Addl.Bench, Thiruvananthapuram and the Hon'ble Tribunal has granted Interim Stay vide order IP No. 457/18 IN T.A (VAT) No. 332/18 dated 17.01.2019 with direction to remit 15% of the total demand and execute simple bond for the balance amount. Accordingly, the dealer remitted Rs.1,69,680/- towards tax and Rs. 2,54,520/- for penalty. Also furnished Security Bond for Rs. 14,42,280/- as directed in the stay order.</p> <p>Amnesty Scheme 2021 Opted and remitted for 2011-12 Rs.59,388/- Ch No.KL020240626202122E 29.12.2021.</p> <p><b><u>2012-13</u></b></p> <p>Based on the audit objection the assessment has been completed as per the Order No. 32030962683/2012-13 dated 25.08.2016 U/s. 25(A) and creating additional demand of Rs.9,60,000/- as Tax and Rs.3,93,600/- as Interest and also imposed penalty of Rs.19,20,000/- U/s. 67(1) of the KVAT Act 2003.</p> <p>The assessee had filed appeal before Deputy Commissioner (Appeals) Kollam vide order No. KVATA(PTA) 307/16, 308/16, 309/16, 310/16 dated 15.12.2016, and the Appellate Authority has directed that the cases are stayed if the appellant remit 40% of the balance tax and interest demanded for the years 2010-11 to 2013-14. Against this order, the dealer filed appeal before the Hon'ble High Court and according to WPC No.</p>
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		<p>1176/2017 dated 12.01.2017, the Hon'ble High Court directed to remit 20% of tax for the years 2010-11 to 2013-14. And this appeal has been dismissed vide order No. KVATA(PTA) 309/16 dated 27.11.2017 and the assessee had filed appeal against 'penalty imposed' U/s 67(1) before the Deputy Commissioner(Appeals) II, Kollam and this appeal has been 'dismissed' vide order No. KVATA(PTA) 89,88,87 &amp; 86/17(RP-72,73,74 &amp; 75/16 dated 31.03.2018. The assessee had filed second appeal against the order of Deputy Commissioner (Appeals) II, Kollam before the Appellate Tribunal, Addl.Bench, Thiruvananthapuram and the Tribunal has granted interim stay vide order IP No. 458/18 IN T.A(VAT) No. 333/18 dated 17.01.2019. In order to getting the stay, the dealer paid Rs.1,92,000/- for VAT, and Rs.2,88,000/- towards penalty and also furnished security Bond for Rs. 16,45,725/- in compliance of the stay order. Amnesty Scheme 2021 Opted remitted for 12-13 Rs.4,89,571/- KL0202406262202122E dtd.29.12.2021, Rs.67,200/- KL 0202406262202122E dated 29.12.2021.</p> <p><b><u>2013-14</u></b></p> <p>Based on the audit objection the assessment has been completed as per the Order No. 32030962683/2013-14 dated 25.08.2016 U/s. 25(A) and creating additional demand of Rs.33,00,000/- as Tax and Rs.9,57,000/- as Interest and also imposed penalty of Rs.66,00,000/- U/s. 67(1) of the KVAT Act 2003.</p> <p>The dealer had filed appeal before Deputy Commissioner(Appeals), Kollam and was stayed vide Order No. KVATA(PTA) 307/16,308/16,309/16,310/16 dated 15.12.2016. The Appellate Authority has directed that the cases are stayed if the appellant remit 40% of the balance tax and interest demanded for the years 2010-11 to 2013-14. Against this order the dealer filed appeal before Hon'ble High Court and was disposed the same and issued judgement in WPC No. 1176/2017 dated 12.01.2017 with direction to remit 20% of tax for the years 2010-11 to 2013-14. As per the direction of the Hon'ble High Court, the dealer remitted Rs.6,60,000/- (20% of tax amount). The dealer had filed appeal before Assistant Commissioner(Appeals), Pathanamthitta against</p>
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		<p>the 'short levy' of tax U/s. 25(A) and this appeal has been 'dismissed' vide Order No. KVATA(PTA) 310/16 dated 27.11.2017. Further, the assessee had filed appeal against 'penalty imposed' U/s. 67(1) before the Deputy Commissioner (Appeals) II Kollam and this appeal was 'dismissed' vide order No. KVATA(PTA) 89,88,87, &amp; 86/17(RP_72, 73, 74 &amp; 75/16 dated 31.03.2018. Subsequently, the assessee filed second appeal before the Appellate Tribunal, Addl.Bench, Thiruvananthapuram and the Tribunal has granted interim stay vide order IP No. 459/18 IN T.A(VAT) No. 334/18 dated 17.01.2019. Accordingly, the dealer had paid Rs.3,30,000/- for VAT and Rs.9,90,000/- towards penalty and furnished Security Bond of Rs.56,20,371/- for balance amount.</p> <p>Amnesty Scheme 2021 Opted remitted for 2013-14 Rs.4,35,193/- chalan No.KL62024062622122E dated 29.12.2021, Rs.1,73,581/- Chalan No. KL020240626202122E dated 29.12.2021.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.14</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/ Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>14. Prime Metal Industries (32421440303)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Adoor</u></b></p> <p>M/s Prime metal Industries, Poozhikkadu, Kundassanadu, Pandalam is a registered metal crushing unit bearing the TIN:32030396496. The assessee started the business during 2002-03 with a single second hand secondary jaw crusher. As per the shop inspection report, the size of the machine is 30.48 cm x 22.86 cm(size 1). The dealer opted compounding and filed compounding application for size 1 machine ( &lt;=30.48 cm x 22.86 cm ) during 2009-10. As per circular No.3/2009 dated. 23.03.2009 of commissioner, Commercial taxes, Thiruvananthapuram, single crusher irrespective of jaw size ( other than cone crusher), compounded tax payable is Rs.25,000/- per annum. On the basis of above circular, compounding order was issued on 06.05.2009. Hence the dealer paid Rs.25,000/- as compounded tax for the year 2009-10 along with cess. As per the finance Act 2009-10 dated 28.07.2009 it is noted as “provided further that not with standing anything contained in this clause, dealers with a single crusher machine of size not exceeding 30.48 cm x 22.86 cm shall pay rupees Rs.25,000/- only per annum as tax under this claim. During the years 2009-10 to 2013-14 assessee had opted to pay tax at compounded rate under section 8(b) of the KVAT Act 2003 for a single crusher secondary size(&lt;30.48 cm x 22.86 cm). As per the records maintained at Kerala State Pollution Control Board the assessee has installed a secondary crusher of jaw size 16” x 9” with 20HP motor. But the dealer has not reported about the purchase of the size II secondary Crusher. The dealer paid Rs.25,000/- per annum for 2010-11 &amp; 2011-12 and Rs.30,000/- per annum for 2012-13 &amp; 2013-14, on the basis of the claim that dealer with a single crushing machine of size not exceeding 30.48cm x 22.86 cm shall pay Rs.25,000/- per annum for 2010-11 &amp; 2011-12 and Rs.30,000/- per annum for 2012-13 &amp; 2013-14.</p>

		<p>Hence a notice was issued to the dealer based on the data received from the audit wing to complete the assessment for the years 2009- 10 to 2013-14 is completed with the following demands.</p> <p>2009-10 : Rs.2,23,905/-  2010-11 : Rs.1,23,128/-  2011-12 : Rs.1,15,885/-  2012-13 : Rs.1,27,800/-  2013-14: Rs.1,16,100/-</p> <p>Aggrieved by this order the assessee filed WP(C)37432 of 2016 before the Hon'ble High Court of Kerala. The assessment order was set aside by the Hon'ble High Court on 23.11.2016 with the direction to pass appropriate orders in accordance with law after personal hearing and considering objections and documents filed by the assessee. In accordance with the direction of the Hon'ble High Court the assessee himself appeared and produced the copy of purchase vouchers of machinery, quotation for installation of machinery and statement from KSEB showing the consumption of Electricity for the said periods. Verified the documents and found it as genuine.</p> <p>In this connection a joint physical verification and local enquiry has been conducted by the team of Intelligence Squad, Pathanamthitta, Commercial tax Officer, Adoor and the Assistant Audit Officer/RSA(P)5 in the business premise of Prime Metal Industries, Pandalam on 06.02.2017 and found that there was executed a single size machine having the size of 30.48 cm / 2.86 cm. More over it is under stood that the business place is closed for a long period and not functioning at Present.</p> <p>In the circumstances stated above the tax liability under section 8(b) of the KVAT Act in respect of Sri.Dileep Kumar, Prime Metal Industries, Poozhikkadu for the year 2009- 10 to 2011-12 is limited to Rs.25,000/- for each years and for the years 2012-13 &amp; 2013-14 is fixed at Rs. 30,000/-. The dealer has already remitted the amount under compounding scheme.</p> <p>The dealer has reported stoppage of business and the KVAT registration of the Firm is cancelled w.e.f 31.03.2017.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.15	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>15. Ricko Rocks and Granites (32030396469)</u></b>  <b><u>2009-10</u></b>  <b><u>CTO, Adoor</u></b></p> <p>Business started from 02.02.2009 with a single Secondary Jaw Crusher. As per the details available in the Registration file and assessment records, the assessee has installed a secondary Jaw crusher of size 16" x 9" which falls under size II. The dealer opted compounding and paid compounding Tax Rs.25,000/- for the year 2009-10. Based on Circular No.3/2009 dated 23.03.2009 the Commissioner has directed under section 8(b) of the Act, single crusher irrespective of jaw size (other than cone crusher) is liable to pay compounded tax @ Rs.25,000/- per annum. But as per the Finance Act 2009-10 Vol. LIV No.1379 dated 28.07.2009, (4) in section 8(ii) in clause(b)e it is noted as "provided further that notwithstanding anything contained in this clause, dealers with a single crushing machine of size not exceeding 30.48cm x 22.86 cm shall pay rupees Rs.25,000/- only per annum as tax under this clause." Hence the dealer is liable to pay a sum of Rs.1,50,000/- for the crushing machine of size exceeding 30.48cm x 28.86cm but not exceeding 40.64 cm x 25.40 cm. On the basis of the Finance Act 2009-10 a notice was issued to the dealer based on the datas received from the audit wing to complete the assessment for the year 2009-10. The assessment for the year 2009-10 is completed with a demand of Rs.2,20,938/-(Tax: Rs.1,25,000/- and Interest Rs.94,688/- and cess Rs.1,250/-). Aggrieved by this order the assessee filed appeal before the Deputy Commissioner (Appeals), Kollam and as per Order No. KVATA(PTA) 344/2016 dated 24.11.2017 the Assistant Commissioner(Appeals) Pathanamthitta dismissed the appeal. The dealer filed an application for settling the arrears under amnesty scheme. As per amnesty scheme 2020 the dealer was liable to remit 40% of the tax due. The dealer has already remitted Rs.44,188/- vide chalan No.459 dated 06.10.2016. Balance tax due was Rs. 82,062/-. Tax due under amnesty scheme</p>

		Rs.32,825/-. The dealer has remitted the amount vide chalan no. KL011041385202021E. Now no arrears are outstanding against the dealer.
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.16</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>16. Stonage Metal Crusher (32030358805)</u></b> <b><u>2009-10</u></b> <b><u>CTO, Adoor</u></b></p> <p>During the period 2009-10 the dealer opted compounding and filed Form 1D Application. As per the Form 1D Application filed on 22.04.2009 the machine size is shown as 16" x 9". As per circular No.3/09 dated 23.03.2009 single crusher unit opting compounding scheme is liable to pay compounded tax of Rs.25,000/- per annum(irrespective of jaw size other than cone). As such he has paid Rs.25,000/- for the year 2009-10. Subsequently he became liable to pay Rs.1,50,000/- being his machine size 16" x 9". In the enhancement in compounded tax liability was by virtue of Finance Act 2009- 10. In the circumstances the dealer is liable to remit balance tax up to the date of installation of new machine. As per documents of the pollution Control Board it was found that the unit has installed machine of size 16" x 10". In this connection a notice has been issued to the dealer to compensate the loss incurred to exchequer due to false machine size reported by dealer and based on Ker.Fin.Act 2009-10 and the assessment for the year 2009-10 is completed with a demand of Rs.2,20,938/-. (Tax: Rs.1,26,250/- and Interest: Rs.94,688/-).</p> <p>Aggrieved by this order the assessee filed appeal before the Assistant Commissioner(Appeals) and the appeal was dismissed as per order No. KVATA(PTA) 9/2017 dated 21/03/2018 of the Assistant Commissioner(Appeals), Pathanamthitta. The dealer has filed an application for settling the arrears under amnesty scheme. Under amnesty scheme 2020 the dealer was liable to remit 40% of the tax due. Total tax due for the year was Rs.1,26,250/-. The dealer has already remitted Rs.1,69,175/- for the year 2009-10. Hence no arrears are outstanding against the dealer.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.17	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPC B/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>17. Plakkatu Granites Industries (32295390304)</u></b>  <b><u>2009-10 to 2011-12</u></b>  <b><u>CTO, Pathanamthitta</u></b></p> <p><b><u>2009-10</u></b>  As per audit objection assessment was completed as per order No.32295390304/09-10 dtd:30.07.2016 determining the compounded tax due for the year 2009-10 as Rs.18,00,000/- along with CESS Rs.18,000/-. The dealer had not filed any return during the first quarter of 2009-10 but paid tax Rs.3,97,683/- as per chalan No. 465 dated 25.11.2009 along with interest Rs.15,914/-. During the remaining three quarters the dealer e-filed the quarterly return and paid Rs.11,81,250/- as tax and of Rs.11,817/- as CESS. Thus the dealer paid an amount of Rs.15,90,750/- during the year and that amount was given credit while completing the assessment. Thus the balance compounded tax due against the assessee was Rs.2,27,250/- and interest Rs.1,27,710/-. An amount of Rs.4,54,500/- as penalty was also imposed as per order No.32295390304/2009-10 dated 31.05.2018. The assessee opted Amnesty Scheme 2017 and settled the entire dues remitting Rs.2,27,250/-. Penalty due were settled through Amnesty Scheme 2019.</p> <p><b><u>2010-11</u></b>  Assessment was completed under section 25A read with section 25(1) of the Act as per Order No.32295390304/10-11 dated 30.07.16 demanding Rs.2,12,100/- as tax and Rs.1,35,680/- as interest. Penalty of Rs.4,24,200/- was imposed as per order dated 31.05.2018. The dealer had opted amnesty scheme 2017 and settled the entire dues as per order dated 30.07.16 remitting Rs.2,12,100/-. Penalty dues as per order dated 31.05.2018 were settled by opting under Amnesty Scheme 2019.</p> <p><b><u>2011-12</u></b>  Assessment was completed under section 25A read with section 25(1) of the Act as per Order No.32295390304/11-12 dated 30.07.16 levying of tax Rs.2,12,100/- and interest Rs.1,10,292/-. Penalty of Rs.4,24,200/- was imposed as per order dated 31.05.2018. The assessee has opted under Amnesty Scheme 2019 and settled the entire arrears.</p>

**2012-13**

Assessment was completed as per Order No. 32295390304/12-13 dated 30.07.16 under section 25(A) read with section 25(1) of the Act levying tax of Rs.2,40,000/- and interest of Rs.96,000/- to a total of Rs.3,36,000/-. Penalty of Rs.4,80,000/- was also imposed as per Order dated 31.05.2018. The assessee opted under Amnesty Scheme 2020 and settled the entire dues vide Ch . No. KL021959908202021E dated 30.03.2021.

**2013-14**

The dealer had filed a letter on 23.03.2013 stating that old jaw crushers were going to be replaced with cone crusher and VSI machine. Accordingly application for compounding tax was filed in form 1B disclosing crusher types as below.

Crusher details	No.	Size
Primary Crusher	1	III(>40.64cm*25.40cm)
Secondary crusher	1	Cone crusher

Assessing authority had visited the business place and conducted inquiry on 25.06.13 and it is seen that there were one cone crusher, one primary crusher and one VSI machine and accordingly compounded tax payable was fixed as per permission in Form 1E dated 23.07.2013 as below.

Crusher details	No.	Tax Payable
Cone crusher	1	Rs.18,00,000/-
Primary crusher	1	Rs.9,00,000/-
<b>Total</b>		<b>Rs.27,00,000/-</b>

The dealer had remitted the amount along with quarterly Returns.

Again the intelligence Officer, Pathanamthitta had conducted enquiry at the business place on 24.07.2013 and according to the Shop Inspection report also, there were one primary crusher, one secondary cone crusher and one VSI machine. Hence the objection raised by the audit team is not sustainable.

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.18	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/ Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>18. Edayan Rocks (32030545599)</u></b>  <b><u>2009-10 to 2011-12</u></b>  <b><u>CTO, Pathanamthitta</u></b></p> <p>Edayan Rocks, Kulathoor.P.O, Kottangal was a compounding metal crushing unit of this office bearing TIN 32030545599. During the years 2009-10 to 2011-12 the dealer opted compounding scheme. He has filed compounding application disclosing one secondary crusher machine and one primary crusher. Subsequently permission was granted only after the inspection conducted in the metal crusher unit by the assessing authority.</p> <p><b><u>2009-10</u></b>  <b>Secondary Crusher</b>  Size 16" x 9" – 1 Number Rs.1,50,000.00  <b>Primary Crusher</b>  Size 24" x 16" – 1 Number Rs.75,000.00  Total Rs.2,25,000.00  Cess Rs.2,250.00  Total Rs.2,27,250.00</p> <p><b><u>2010-11</u></b>  <b>Secondary Crusher</b>  Size 16" x 9" – 1 Number Rs.1,40,000.00  <b>Primary Crusher</b>  Size 24" x 16" – 1 Number Rs.70,000.00  Total Rs.2,10,000.00  Interest Rs.2,100.00  Total Rs.2,12,100.00  On the basis of above compounding order dealer paid the said amount. Also during 2010-11 he has paid Rs.2,12,100/- through e-payment.</p> <p><b><u>2011-12</u></b>  <b>Secondary crusher</b>  Size II(&gt;30.48cm x22.86cm and &lt;=40.64cm x 25.40cm) –  1 No. Rs.1,40,000.00  <b>Primary Crusher</b>  Size III (&gt;40.64cm x 25.40 cm) – 1 Number Rs.70,000.00  TOTAL Rs.2,10,000.00  Cess Rs.2,100.00</p>



		<p>Quarterly tax = Rs.53,025/-</p> <p>Dealer paid Rs.2,12,100/- through e-payment.</p> <p>Compounding orders were served on the dealer during the respective years. The department did not serve any order revising the compounded rate. Even if these were mistakes in the compounding order, revised order must be served on the dealer within the financial year itself. Hence there is no scope for fresh assessment based on a revised compounding order.</p> <p>The department did not obtain any fresh evidence to prove that the dealer suppressed any material information or furnished any wrong information for obtaining a compounding order in his favour. In this case, material evidence means any inspection report stating that the different machine was installed at the place of business. Commercial Tax Officer, Thiruvalla had inspected the business premises of the dealer on 17.06.2011 and had prepared a report. The compounding order was issued based on that report. The department did not gather any other material that shows that any other crushing machine was installed by the dealer during any part of the financial year.</p> <p>Compounding applications and quarterly returns for the year 2012-13 would show that the dealer acquired one additional secondary crushing machine. But the material is not sufficient to prove that any such additional machines were installed during any part of financial year 2011-12.</p> <p>In this context, the contention put forth by the Audit Enquiry is not sustainable.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.19</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>19. Konni Kochin Granites (32030495684)</u></b> <b><u>2009-10 to 2011-12</u></b> <b><u>CTO, Pathanamthitta</u></b></p> <p><b><u>2009-10</u></b> The assessment under section 25A read with section 25(1) was completed as per order no.32030495684/09-10 dated 22.07.16 levying tax Rs.2,77,750/- and Interest Rs. 2,11,090/- and penalty of Rs.5,55,500/- was imposed as per order dated 31.05.2018. The dealer had opted under amnesty scheme 2017 and settled the entire dues as per order dated 22.07.2016 remitting Rs.2,77,250/-. Penalty dues as per order dated 31.05.2018 settled through amnesty scheme 2019.</p> <p><b><u>2010-11</u></b> The assessment was completed under section 25A read with section 25(1) as per order no. 32030495684/10-11 dated 22.07.16 demanding tax Rs.1,81,000/- and Interest Rs.1,15,840/- and penalty of Rs.3,63,600/- was imposed as per order dated 31.05.2018. The dealer had opted under amnesty scheme 2017 and settled the entire dues as per order dated 22.07.2016 remitting Rs.1,81,000/-. Penalty dues as per order dated 31.05.2018 settled through amnesty Scheme 2019.</p> <p><b><u>2011-12</u></b> As per audit objection assessment was completed as per order No. 32295390304/09-10 dtd:30.07.2016 determining the compounded tax due for the year 2009-10 as Rs.18,00,000/- along with CESS Rs.18,000/-. The dealer had not filed any return during the first quarter of 2009-10 but paid tax Rs.3,97,683/- as per chalan No.S 465 dated 25.11.2009 along with interest Rs.15,914/-. During the remaining three quarters the dealer e-filed the quarterly return and paid Rs.11,81,250/- as tax and of Rs.11,817/- as CESS. Thus the dealer paid an amount of Rs.15,90,750/- during the year and that amount was given credit while completing the assessment. Thus the balance compounded tax due against the assessee was</p>

		<p>Rs.2,27,250/- and interest Rs.1,27,710/-. An amount of Rs.4,54,500/- as penalty was also imposed as per order No.32295390304/2009-10 dated 31.05.2018. The assessee opted Amnesty Scheme 2017 and settled the entire dues remitting Rs.2,27,250/-. Penalty due were settled through Amnesty Scheme 2019. Copies of assessment orders and chalans had already been submitted to that office. Attaching herewith the copies of Amnesty settlement form and payment details for clarification.</p>
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Para No.	Gist of the Case	Present Position						
2.6.1 Sl.No.20	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>20. Wilson Stone Crusher (32030494929)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Pathanamthitta</u></b></p> <p><b><u>2009-10</u></b> Assessment was completed under section 25A read with section 66 of KVAT Act 2003 demanding balance tax Rs. 1,26,250/- with interest Rs.79,538/- (Total: Rs.2,05,788/-). The steps for collection of the amount have been stayed by Hon'ble High Court as per WP(C) No.26397/16 dated 05.04.2017. The WP© is still pending.</p> <p><b><u>2010-11</u></b> Assessment was completed under section 25 read with section 66 of the KVAT Act 2003 as per Order No. 32030494929/10-11 dated 11.07.2016 demanding balance tax:Rs.75,750/- and interest:Rs.38,633/- (Total:Rs. 1,14,383/-). The steps for collection of the amount have been stayed by Hon'ble High Court as per WP(C) No. 26397/16 dated 05.04.2017. The WP© is still pending.</p> <p><b><u>2011-12</u></b> Assessment was completed under section 25A read with section 66 of the KVAT Act 2003 as per Order No. 32030494929/11-12 dated 11.07.2016 levying tax:Rs. 75,750/- and interest:Rs.29,543/- (Total:Rs.1,05,293/-). The dealer had remitted Rs.31,588/- vide Chalan Sq. No. 44/30.09.2016 and filed appeal before AC(A), Pathanamthitta and the appeal was dismissed. The dealer had opted under Amnesty Scheme 2019 and settled the arrears. Remittance details as given below.</p> <table><tr><th>Chalan No.</th><th>Amount</th></tr><tr><td>KL003671904201920M</td><td>Rs. 20,000/-</td></tr><tr><td>KL005260223201920M</td><td>Rs. 24,162/-</td></tr></table> <p><b><u>2012-13</u></b> Assessment was completed under section 25A read with section 66 of the KVAT Act 2003 as per Order No. 32030494929/12-13 dated 11.07.2016 levying balance</p>	Chalan No.	Amount	KL003671904201920M	Rs. 20,000/-	KL005260223201920M	Rs. 24,162/-
Chalan No.	Amount							
KL003671904201920M	Rs. 20,000/-							
KL005260223201920M	Rs. 24,162/-							

		<p>tax:Rs.90,000/- and interest:Rs.24,300/- (Total:Rs.1,14,300/-). The dealer has paid Rs.34,290/- vide Chalan Sq. No.45/30.09.2016 and filed appeal before AC(A), Pathanamthitta and the appeal was dismissed. The dealer had opted under Amnesty Scheme 2019 and settled the arrears remitting Rs.55,710/- vide Chalan No. KL005778844201920M.</p> <p><b><u>2013-14</u></b></p> <p>Assessment was completed under section 25A read with section 66 of the KVAT Act 2003 as per Order No. 32030494929/13-14 dated 11.07.2016 levying tax:Rs. 90,000/- and interest:Rs.13,500/- (Total:Rs.1,03,500/-). The dealer remitted Rs.31,050/- vide Chalan Sq. No. 46/30.09.2016 and filed appeal before AC(A), Pathanamthitta and the appeal was dismissed. The dealer had opted under Amnesty Scheme 2019 and settled the arrears remitting Rs.58,950/- vide Chalan No. KL005993068201920M.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.21</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>21. Ravindra Rock Crushing Plant (32030513752)</u></b> <b><u>2009-10</u></b> <b><u>CTO, Thiruvalla</u></b></p> <p>Based on the audit objection a notice was issued to the assessee. As per the direction of the AG, as per RSA(HQ) II/CT-1/16-78/2016-17/175 dated 05.12.2016 , the assessee paid balance tax for Rs.1,99,500/- vide Chalan No.108 dated 03.11.2016. As the case is a time barred case no other action can be taken in this case. The assessee had remitted, compounded tax for the year 2009-10. This para was dropped by AG as per RSA(HQ) II/CT-1/16-78/2016-17/319 dated 20.01.2017. Hence this para may please be dropped.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.22	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>22.Lakshmi Stone Industries (32030547456)</u></b>  <b><u>2009-10</u></b>  <b><u>IAC, Pathanamthitta</u></b></p> <p>M/s. Lakshmi Stone Industries, Ezhumattoor, Thiruvalla with TIN 32030547456 is a manufacturer of Granite Metals and M.Sand. The Audit Team, based on the information gathered from KSPCB, Pathanamthitta pointed out that the assessee had "Consent to establish" one super primary crusher of 100HP motor and one secondary cone crusher of 200 HP vide consent number PCB/HO/ICE/PTA/04/2008 dated 05.02.2008 valid up to 04.02.2011. "Consent to Operate" above primary crusher along with cone crusher was issued to the unit vide consent no.PCB/RO/PTA/ICO/03/2010. Scrutiny of data from KVATIS revealed that the assessee took VAT registration only on 01.04.2011 and during the year 2009-10 the assessee had not filed any return even though the first "Consent to Operate" was issued to the assessee on 01.02.2010.</p> <p>Pointing out the audit objection a notice under section 25(A) of the KVAT Act 2003 was issued to the assessee. On verification of the reply filed by the dealer it is revealed that the current registration with TIN 32030247456 started only from 01.04.2011. During the year 2009-10, there was a separate registration for Lakshmi stone Industries, Othara with TIN 32030560719 in the Commercial Tax Office, Thiruvalla. This was a partnership firm and partners were V.S Ramachandran Pillai, Kamalamma and Ajayakumar. Later the unit at Othara with TIN number 32030560719 was cancelled. During the year 2009-10, the assessee, 32030560719 had not opted for compounding but remitted tax based on sales turnover. The annual return was submitted on 01.11.2010 conceding total turnover of Rs. 31,15,160/- and remitted tax Rs. 3,93,288/-.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.23</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>23. Kuzhuvammannil Industries (32030516834)</u></b> <b><u>2011-12</u></b> <b><u>IAC, Pathanamthitta</u></b></p> <p>In the light of the audit objection the 'Assessing authority' completed the assessment vide order No. 32030516834/10-11 and 11-12 dtd. 28.08.2014 demanding balance tax amount of Rs.22,72,500/- along with interest Rs.9,31,725/- for the year 2010-11 and Rs.22,72,500/- as tax and Rs.6,59,025/- as interest for the year 2011-12. Aggrieved by the order the dealer filed appeal before the Deputy Commissioner (Appeals)-II, Kollam and the appeal was dismissed. As the dealer was not satisfied by the order he approached the Tribunal. The Tribunal viewed that the 'Assessing authority' was expected to make a site visit at the crusher unit to ascertain the real time fact as and when needed or before issuing permission for compounding. The 'Assessing authority' relied only on a fact of deduction of depreciation to ascertain that there no production using the said cone crusher. Further mode of supplementary evidence was also warranted. In this case there was not any. There was no substantial evidence to conclude that the appellant had used the cone crusher for production during the years 2010-11 &amp; 2011-12. Considering the above fact the Tribunal had set aside the 1<sup>st</sup> appellate order and assessment order for the years 2010-11 and 2011-12 and remanded for fresh disposal. In the light of the Tribunal fresh order was issued as there is no scope for filing OT Revision in this case. In the above circumstances the finding of the C&amp;AG is not sustainable.</p>



Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.24</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>24.Malleilil Industries Pvt. Ltd. (32030246507)</u></b> <b><u>2009-10, 2012-13 &amp; 2013-14</u></b> <b><u>IAC, Pathanamthitta</u></b></p> <p><b><u>2009-10</u></b> M/s. Malleilil Industries(P) Ltd., Konni, Pathanamthitta is a manufacturer of crushed metal and had opted for compounding during the year 2009-10. On the basis of the information gathered from the Kerala State Pollution Control Board (KSPCB)/Department of Mining and Geology, the audit party pointed out that the assessee had under reported one secondary crusher installed resulting in short levy of tax, interest and penalty. In this case assessment was completed vide order No. 32030246507/2009-10 dated 28.09.2017 demanding tax Rs.4,54,500/- with interest Rs.4,22,685/-. Penalty of Rs. 9,09,000/- was also imposed upon the dealer as per penalty order No.32030246507/2009-10 dated 28.09.2017. The dealer opted amnesty scheme and remitted Rs.4,54,500/- towards tax vide chalan No.KL0078489842017M dated 15.11.2017. 30% of the penalty amount, Rs.2,72,700/- was also remitted as per Chalan No.KL007130647201718M dated 23.10.2017.</p> <p><b><u>2012-13 &amp; 2013-14</u></b> In respect of Malleilil Industries, no objection is received from the audit party for the year 2012-13 and 2013-14. However the correctness of returns filed by the dealer during the years 2012-13 and 2013-14 were cross – checked with the secondary evidences gathered from the Kerala State Pollution Control Board (KSPCB) and the Department of the Mining and Geology. On verification of the annual returns submitted by the dealer it is found that during the years 2012-13 and 2013-14 the assessee has returned one cone crusher and one no. of primary crusher. As per the renewal consent to operate consent no. PCB/RO/PTA/Tco/02/2012 dated 15.02.2012 issued by Kerala State Pollution Control Board valid upto 30.06.2014, the assessee had installed the following machines.</p>

		<p><b>Primary Crusher</b>                      <b>100hp</b></p> <p><b>Cone Crusher</b>                        <b>135hp</b></p> <p><b>Horizontal shaft impactor</b>        <b>50hp</b></p> <p><b>Vertical shaft impactor</b>            <b>75hp</b></p> <p>As per the registration certificate No.1/12-13/RMCU/PTA/1925/M3/2012 dated 06.03.2021 issued by the department of Mining and Geology for the year 2012-13 the assessee has registered with one no.of cone crusher.</p> <p>As per the registration certificate No.34/20/13-14/RMCU/PTA/2603/M3/2013 dated 15.03.2013 for the year 2013-14 the assessee has registered with one cone crusher and one VSI machine.</p> <p>During the years 2012-13 and 2013-14 the turnover of M-Sand need not be included for compounding. Hence there is no under reporting of the size and number of any machines installed during 2012-13 and 2013-14.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.25	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>25. Central Granites (32080764824)</u></b>  <b><u>2009-10, 2011-12 &amp; 2012-13</u></b>  <b><u>AIT &amp; CTO, Thrissur</u></b></p> <p><b><u>2009-10</u></b>  The original assessment order in respect of M/s. Central Granites, Velakkode, Mundur (TIN 32080764824) for the year 2009-10 has been completed, vide order No. 32080764824/2009-10 dated 11.04.2016. Aggrieved by this order, the assessee filed appeal before DC(Appeals), Thrissur. The Appellate Authority vide KVAT No.357/16 dated 22.05.2018, remanded back the order to the Assessing Authority directing fresh disposal. As per the defect pointed out by the Audit Enquiry and the appellate orders, remanded assessment was completed, vide order No.32080764824/2009-10 dated 22.06.2019 and penalty order also issued. The dealer remitted whole amount under RR and amnesty scheme 2019-20 as follows. Penalty amount and interest were waived under amnesty scheme. Total amount demanded = Rs.2,60,000/-  1)Paid Rs.78,000/- under RR Rt. No.6210240 dtd, 06.08.2016 of the Kariyannur Village Office.  2)Paid Rs.30,333/- vide Chalan No. KL012138650 201920M dtd 21.12.2019.  3)Paid Rs.30,333/- vide Chalan No. KL006859273 201920M dtd 04.09.2019.  4)Paid Rs.30,333/- vide Chalan No. KL008988341 201920M dtd 22.10.2019.  5)Paid Rs.30,333/- vide Chalan No. KL009822765 201920M dtd 05.11.2019.  6)Paid Rs.30,333/- vide Chalan No. KL011839203 201920M dtd 16.12.2019.  7)Paid Rs.30,333/- vide Chalan No. KL005568051 201920M dtd 01.08.2019.</p> <p><b><u>2011-12</u></b>  The original assessment order in respect of Central Granites, Velakkode, Mundur (TIN 32080764824) for the year 2011-12 has been completed vide order No. 32080764824/2011-12 dated 15.04.2016. Aggrieved by</p>

		<p>this order, the assessee filed appeal before the Deputy Commissioner (Appeals), Thrissur. The Appellate Authority vide KVAT No.358/16 dated 22.05.2018, remanded back the order to the assessing authority directing fresh disposal. As per the defect pointed out by the Audit Enquiry and the appellate orders, remanded assessment was completed vide order No.32080764824/2011-12 dated 22.06.2019 and penalty order also issued.</p> <p>The dealer remitted whole amount under RR and amnesty scheme 2019-20 as follows. Penalty amount and interest were waived under amnesty scheme.</p> <p>Total amount demanded = Rs.2,80,000/-</p> <p>1)Paid Rs.72,000/- under RR Rt. No.6210240 dtd 06.08.2016 of the Kariyannur Village Office.</p> <p>2)Paid Rs.34,667/- vide Chalan No. KL012139411 201920M dtd 21.12.2019.</p> <p>3)Paid Rs.34,667/- vide Chalan No. KL006859086 201920M dtd 04.09.2019.</p> <p>4)Paid Rs.34,667/- vide Chalan No. KL008989116 201920M dtd 22.10.2019.</p> <p>5)Paid Rs.34,667/- vide Chalan No. KL009675341 201920M dtd 05.11.2019.</p> <p>6)Paid Rs.34,667/- vide Chalan No. KL011840135 201920M dtd 16.12.2019.</p> <p>7)Paid Rs.34,667/- vide Chalan No. KL005567840 201920M dtd 01.08.2019.</p> <p><b><u>2012-13</u></b></p> <p>The original assessment order in respect of Central Granites, Velakkode, Mundur (TIN 32080764824) for the year 2012-13 has been completed, vide order No. 32080764824/2012-13 dated 15.04.2016. Aggrieved by this order the assessee filed appeal before the Deputy Commissioner (Appeals), Thrissur. The Appellate Authority vide KVAT No.359/16 dated 22.05.2018, remanded back the order to the assessing authority directing fresh disposal. As per the defect pointed out by the Audit Enquiry and the appellate orders, remanded assessment was completed, vide order No.32080764824/2012-13 dated, 22.06.2019 and penalty order also issued. The dealer remitted whole amount</p>
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		<p>under RR and amnesty scheme 2019-20 as follows. Penalty amount and interest were waived under amnesty scheme.</p> <p>Total amount demanded = Rs.2,80,000/-</p> <p>1)Paid Rs.84,000/- under RR Rt. No.6210240 dtd 06.08.2016 of the Kariyannur Village Office.</p> <p>2)Paid Rs.32,667/- vide Chalan No. KL012139591 201920M dtd 21.12.2019.</p> <p>3)Paid Rs.32,667/- vide Chalan No. KL006858829 201920M dtd 04.09.2019.</p> <p>4)Paid Rs.32,667/- vide Chalan No. KL008989226 201920M dtd 22.10.2019.</p> <p>5)Paid Rs.32,667/- vide Chalan No. KL009675688 201920M dtd 05.11.2019.</p> <p>6)Paid Rs.32,667/- vide Chalan No. KL011840779 201920M dtd 16.12.2019.</p> <p>7)Paid Rs.32,667/- vide Chalan No. KL005568470 201920M dtd 01.08.2019.</p>
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Para No.	Gist of the Case	Present Position								
2.6.1 Sl.No.26	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>26. Vilamana Industries (32080866309)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Chalakudy</u></b></p> <p>The assessment in respect of M/s. Vilamana Industries for the year 2009-10 to 2013-14 has been completed and the balance amount for the years 2009-10 to 2013-14 has been advised for RR. Hon'ble High Court of Kerala has granted stay to the assessee for all the above years. WP(C)No. 6950/2018 (2009-10, 2010-11 and 2013-14), WP(C)No. 9164/2018 (2011-12 and 2012-13). Writ petition is disposed of directing the Appellate Authority to consider and pass orders on the applications for stay preferred by the petitioner in the appeals, within one month from the date of receipt of a copy of the judgment.</p> <p><b><u>2009-10</u></b></p> <p>The assessee opted for compounded rate of tax under sec 8(b) of the Act for the year 2009-10 having machines 3Nos size-II secondary crushers and one primary crusher (Total 4 Nos). The objection pointed out by the audit team is that as per the information gathered from KSPCB and the inspection report on 23-03-2015 of the Intelligence Officer, Commercial Taxes, Thrissur, the assessee had installed 3Nos of size-III secondary machines and 1No size-II secondary machine (Total 4Nos.). Hence the assessment in respect of M/s.Vilamana Industries for the year 2009-10 has been completed by taking 3Nos size-III secondary crusher and one primary crusher. The demand created, amount paid, Balance amount etc. is given below:-</p> <table><tr><th>Year</th><th>Demand created</th><th>Amount Paid</th><th>Balance</th></tr><tr><td>2009-10</td><td>19,67,023.00</td><td>6,92,914.00</td><td>12,74,109.00</td></tr></table> <p>Aggrieved by the order of the Assessing Authority, the assessee filed appeal before the Joint Commissioner (Appeals), Thrissur and the learned Appellate Authority observed that in the consent order of PCB they only mentioned the power (HP) of motors used in the crushers.</p>	Year	Demand created	Amount Paid	Balance	2009-10	19,67,023.00	6,92,914.00	12,74,109.00
Year	Demand created	Amount Paid	Balance							
2009-10	19,67,023.00	6,92,914.00	12,74,109.00							

As per section 8(b) of the KVAT Act 2003, the criteria fixed for determining the compounded rate of tax is the jaw size. There was no evidence to prove that the machinery compounded six years back was not the size as declared in the compounding application. The change in constitution of machines in the business place of the appellant occurred only in the year 2012-13 and 2013-14 due to the purchase of two jaw crushers one in August 2012 and the other one in October 2013. In the absence of concrete evidences the Assessing Authority is not justified in adopting the machine size noted in the SIR taken in the year 2014-15 for fixing the tax liability for the year 2009-10.

Under the circumstances the impugned assessment order over looking the already concluded compounding order is not sustainable. Hence the Appellate Authority allowed the appeal of the assessee by setting aside the impugned assessment order and modify accordingly. The Assessing Authority modified the assessment order as per Order No. 32080866309/2009-10 dated 17.08.2020 as NIL Demand.

#### **2010-11 & 2011-12**

The assessee opted for compounded rate of tax under sec 8(b) of the Act for the years 2010-11 & 2011-12 having machines 4 size-II secondary crushers and one primary crusher (Total 5Nos.). The objection pointed out by the audit team is that as per the information gathered from KSPCB and the inspection report on 23-03-2015 of the Intelligence Officer, Commercial Taxes, Thrissur, the assessee had installed 3 Nos of size-III secondary machines, 1No size-II secondary Machine and one primary machine(Total 5Nos). Hence the assessment in respect of M/s. Vilamana Industries for the year 2010-11 & 2011-12 has been completed by taking 3 Nos. Size-III secondary crusher one number size-II secondary machine and one primary crusher (Total 5Nos.). The demand created, amount paid, Balance amount etc ., is given below:-

<b>Year</b>	<b>Demand Created</b>	<b>Amount Paid</b>	<b>Balance</b>
<b>2010-11</b>	19,87,377/-	8,48,400/-	11,38,977/-

		<b>2011-12</b>	17,81,384/-	10,48,400/-	7,32,984/-
		<p>Aggrieved by the order of the Assessing Authority, the assessee filed appeal before the Joint Commissioner (Appeals), Thrissur and the learned Appellate Authority observed that in the consent order of PCB they only mentioned the power (HP) of motors used in the crushers. As per section 8(b) of the KVAT Act 2003, the criteria fixed for determining the compounded rate of tax is the jaw size. The change in constitution of machines in the business place of the appellant occurred only in the year 2012-13 and 2013-14 due to the purchase of two jaw crushers one in August 2012 and the other one in October 2013. They produced copies of invoices and schedule of fixed asset in support of his claim. In the absence of concrete evidences, the Assessing Authority is not justified in adopting the machine size noted in the SIR taken in the year 2014-15 for fixing the tax liability for the year 2010-11 &amp; 2011-12.</p> <p>Under the circumstances the impugned assessment order over looking the already concluded compounding order is not sustainable. Hence the Appellate Authority allowed the appeals of the assessee by setting aside the impugned assessment orders and hence modified accordingly. The Assessing Authority modified the assessment order as per Order No.32080866309/2010-11 &amp; 2011-12 dated 17.08.2020 as NIL demand.</p> <p><b><u>2012-13</u></b></p> <p>The assessee opted for compounded rate of tax under sec 8(b) of the Act for the year 2012-13 having machines 4 Nos size-II secondary crushers and one number primary crusher (Total 5Nos). The objection pointed out by the audit team is that as per the information gathered from KSPCB and the inspection report on 23-3-2015 of the Intelligence Officer, Commercial Taxes, Thrissur, the assessee had installed 3 Nos of size-III secondary machines and 1No size-II secondary machine and one primary (Total 5Nos.). Hence the assessment in respect of M/s.Vilamana Industries for the year 2012-13 has been completed by taking Three Nos size-III secondary crusher</p>			



one number size-II secondary machine and one primary crusher (Total 5Nos.). The demand created, amount paid, balance amount etc., is given below:-

<b>Year</b>	<b>Demand Created</b>	<b>Amount Paid</b>	<b>Balance</b>
<b>2012-13</b>	20,83,200/-	9,60,000/-	11,23,200/-

Aggrieved by the order of the Assessing Authority, the assessee filed appeal before the Joint Commissioner (Appeals), Thrissur and the learned Appellate Authority observed that in the consent order of PCB they only mentioned the power (HP) of motors used in the crushers. As per section 8(b) of the KVAT Act 2003, the criteria fixed for determining the compounded rate of tax is the jaw size. Prior to the inspection during the year 2014-15 there was an inspection of intelligence wing in the business place on 14-03-2014 and prepared SIR incorporating the machine details. Since there was some difference from what the compounding application, the assessee compounded the offense U/s 74 of the Act. So the inspection conducted and the details recorded in the SIR No.144649 dated 23-03-2015 cannot go beyond the assessment year (2014-15). The change in constitution of machines in the business place of the appellant occurred only in the year 2012-13 and 2013-14 due to the purchase of two jaw crushers one in August 2012 and the other one in October 2013. They produced copies of invoices and schedule of fixed asset in support of their claim. Hence the appellate authority modified the assessment order of the assessee for the year 2012-13 based on the documents produced by the appellant, and SIR.144716 dated 14-03-2014 and the admission of the details incorporated in the SIR as to the size of the crushers, the compounding tax liability under section 8(b) of the Act for the year 2012-13 shall be re-fixed as secondary machine size -III : one No, secondary machine size-II : 3 Nos and one primary machine.

In the above circumstances and in the light of the appellate orders the assessment order for the year 2012-13 in respect of M/s.Vilamana Industries, Kuttichira is modified and the tax due is as follows.

Year	Demand Created	Amount Paid	Balance
2012-13	12,00,000/-	11,60,000/-	40,000/- (Adjusted from the excess tax paid for the year 2014-15)

There is no arrears outstanding against the dealer for the year 2012-13.

**2013-14**

The assessee opted for compounded rate of tax under sec 8(b) of the Act for the year 2013-14 having machines 4Nos size -II secondary crushers and one primary crusher (Total 5Nos). The objection pointed out by the audit team is that as per the information gathered from KSPCB and the inspection report on 23-3-2015 of the Intelligence Officer, Commercial Taxes, Thrissur, the assessee had installed 3Nos of size -III secondary machines and 1No size -II secondary machine and one primary machine (Total 5Nos). Hence the assessment in respect of M/s.Vilamana Industries for the year 2012-13 has been completed by taking Three Nos size -III secondary crusher one number size -II secondary machine and one primary crusher (Total 5Nos). The demand created, amount paid, Balance amount etc., is given below:-

Year	Demand created	Amount Paid	Balance
2013-14	17,85,600/-	14,40,000/-	3,45,600/-

Aggrieved by the order of the Assessing Authority, the assessee filed appeal before the Joint Commissioner (Appeals), Thrissur and the learned Appellate Authority observed that in the consent order of PCB they only mentioned the power (HP) of motors used in the crushers. As per section 8(b) of the KVAT Act 2003, the criteria fixed for determining the compounded rate of tax is the jaw size. Prior to the inspection during the year 2014-15 there was an inspection of intelligence wing in the

business place on 14-03-2014 and prepared SIR incorporating the machine details. Since there was some difference from what the compounding application, the assessee compounded the offense U/s 74 of the Act. So the inspection conducted and the details recorded in the SIR No.144649 dated 23-03-2015 cannot go beyond the assessment year (2014-15). The change in constitution of machines in the business place of the appellant occurred only in the year 2012-13 and 2013-14 due to the purchase of two jaw crushers one in August 2012 and the other one in October 2013. They produced copies of invoices and schedule of fixed assets in support of their claim. Hence the appellate authority modified the assessment order of the assessee for the year 2012-13 based on the documents produced by the appellant, and SIR.144716 dated 14-03-2014 and the admission of the details incorporated in the SIR as to the size of the crushers, the compounding tax liability under section 8(b) of the Act for the year 2013-14 shall be re-fixed as secondary machine size -III : 1No, Secondary machine size -II : 3 Nos and one primary machine.

Category	Size	Nos	Tax(Rs.)	SE
Secondary Machine	III	2	3,20,000/- -	6,40,000/-
Secondary Machine	II	2	1,60,000/- -	3,20,000/-
Primary		1	4,80,000/- -	4,80,000/-
<b>Total Due</b>				14,40,000 /-

In the above circumstances and in the light of the appellate orders the assessment order for the year 2013-14 in respect

of M/s.Vilamana Industries, Kuttichira is modified and the tax due is as follows.

Year	Demand Created	Amount Paid	Balance
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		2013-14	14,40,000/-	14,40,000/-	Nil
		<p>More over the above audit objection based on the SIR No.144649/23-3-2015. The penalty order relied on the SIR No.144649/23-3-2015 the assessee filed RP appeal before the Deputy Commissioner, Thrissur and reduced the penalty by virtue of the clarification No.C3-18380/15/CT dated 03-11-2016 of CCT. The jaw size of 30"*4" will come under the sec 8(b) (ii) for which compounding tax due is only Rs.3.20 lakhs. Hence the compounding tax liability under section 8(b) of the Act for the year 2013-14 shall be re-fixed as secondary machine size -III -1No, Secondary machine size-II - 3Nos and one primary machine.</p>			

Para No.	Gist of the Case	Present Position																								
2.6.1 Sl.No.27	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/ Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>27. ACK Sons Rock Processing Unit (32080865185)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Chalakudy</u></b></p> <p>The defect pointed out by the audit team is that the under reporting of one size- III secondary crusher has resulted in short levy of tax and interest for the years 2009-10 to 2013-14. The assessment in respect of M/s. ACK Sons Rock Processing Unit, Vettilappara for the years 2009-10 to 2013-14 has been completed. The assessee filed WP(C)No. 20138/2018 before the Hon’ble High Court of Kerala (The case of Repeal and saving VAT Act). The court dismissed the WP(C) on 19-06-2018. All the balance amount for the years 2009-10 to 2013-14 has been advised for Revenue Recovery. The assessee again filed WA. No. 1337/2019 before the Hon’ble High Court of Kerala. The assessee paid 20% of the balance due and the Hon’ble High Court has granted stay to the assessee for all the above years i.e., from 2009-10 to 2013-14 and the appeal is pending before the Hon’ble High Court of Kerala. The demand created, amount paid, Balance amount etc., is given below:-</p> <table><tr><th>Year</th><th>Demand created</th><th>Amount Paid</th><th>Balance</th></tr><tr><td>2009-10</td><td>Rs.5,93,880/- -</td><td>Rs.60,600/-</td><td>Rs.5,33,280/- -</td></tr><tr><td>2010-11</td><td>Rs.5,97,920/- -</td><td>Rs.64,640/-</td><td>Rs.5,33,280/- -</td></tr><tr><td>2011-12</td><td>Rs.5,59,136/- -</td><td>Rs.64,640/-</td><td>Rs.4,94,496/- -</td></tr><tr><td>2012-13</td><td>Rs.5,79,600/- -</td><td>Rs.72,000/-</td><td>Rs.5,07,600/- -</td></tr><tr><td>2013-14</td><td>Rs.4,02,300/- -</td><td>Rs.54,000/-</td><td>Rs.3,48,300/- -</td></tr></table> <p>Later the assessee filed withdrawal application and stated that in view of the Amnesty scheme introduced by the legislature the assessee desires to withdraw the above appeal for the purpose of opting for the amnesty scheme 2024 .After that the assessee filed the amnesty application for the period from 2009-10 to 2013-14.</p>	Year	Demand created	Amount Paid	Balance	2009-10	Rs.5,93,880/- -	Rs.60,600/-	Rs.5,33,280/- -	2010-11	Rs.5,97,920/- -	Rs.64,640/-	Rs.5,33,280/- -	2011-12	Rs.5,59,136/- -	Rs.64,640/-	Rs.4,94,496/- -	2012-13	Rs.5,79,600/- -	Rs.72,000/-	Rs.5,07,600/- -	2013-14	Rs.4,02,300/- -	Rs.54,000/-	Rs.3,48,300/- -
Year	Demand created	Amount Paid	Balance																							
2009-10	Rs.5,93,880/- -	Rs.60,600/-	Rs.5,33,280/- -																							
2010-11	Rs.5,97,920/- -	Rs.64,640/-	Rs.5,33,280/- -																							
2011-12	Rs.5,59,136/- -	Rs.64,640/-	Rs.4,94,496/- -																							
2012-13	Rs.5,79,600/- -	Rs.72,000/-	Rs.5,07,600/- -																							
2013-14	Rs.4,02,300/- -	Rs.54,000/-	Rs.3,48,300/- -																							

Para No.	Gist of the Case	Present Position												
2.6.1 Sl.No.28	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>28. Southern Industries (32080846509)</u></b> <b><u>2010-11 to 2012-13</u></b> <b><u>CTO, Chalakkudy</u></b></p> <p>The objection pointed out by the audit team is that the assessee had under reported the size of the secondary machines installed in his unit. Instead of the size- III secondary crusher, the assessee had reported size-II secondary crusher unit during the years 2010-11 to 2012-13.</p> <p>On verification of the books of accounts it is revealed that the assessee had purchased and installed a new jaw crusher machine during 2011-12. Hence the permission for compounding for the years 2011-12 and 2012-13 revised by taking the tax of size-III secondary machine. The demand created, amount paid, balance amount etc., is given below:-</p> <table><tr><th>Year</th><th>Demand created</th><th>Amount paid</th><th>Balance</th></tr><tr><td>2011-12</td><td>2,54,520/-</td><td>2,54,520/-</td><td>Nil</td></tr><tr><td>2012-13</td><td>3,09,600/-</td><td>3,09,600/-</td><td>Nil</td></tr></table>	Year	Demand created	Amount paid	Balance	2011-12	2,54,520/-	2,54,520/-	Nil	2012-13	3,09,600/-	3,09,600/-	Nil
Year	Demand created	Amount paid	Balance											
2011-12	2,54,520/-	2,54,520/-	Nil											
2012-13	3,09,600/-	3,09,600/-	Nil											

Para No.	Gist of the Case	Present Position																																		
2.6.1 Sl.No.29	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>29. Pathiyaparambil Industries</u></b> <b><u>(32080888304)</u></b> <b><u>2011-12 to 2013-14</u></b> <b><u>CTO, Chalakkudy</u></b></p> <p><b><u>2011-12</u></b></p> <p>Assessment for the year 2011-12 was completed on 08.12.2015</p> <table><tr><td>compounded tax due</td><td>Rs.1,00,000.00</td></tr><tr><td>Tax paid</td><td>Rs. 25,000.00</td></tr><tr><td colspan="2">-----</td></tr><tr><td>Balance due</td><td>Rs. 75,000.00</td></tr><tr><td>Cess due</td><td>Rs. 750.00</td></tr><tr><td>Interest due</td><td>Rs. 30,300.00</td></tr><tr><td colspan="2">-----</td></tr><tr><td>Total due</td><td><b>Rs.1,06,050.00</b></td></tr></table> <p>Paid Rs.31050/- (as per chalan No. 207 dt. 20.02.2016), Rs.25000/- ( as per chalan No.231 dt.21.03.2016),Rs.25000/- (as per chalan No.233 dt.10.6.2016), Rs.28250/- (as per chalan No.171 dt.19.09.2016 )</p> <table><tr><td>Total paid</td><td><b>Rs. 1,09,300/-</b></td></tr><tr><td colspan="2">=====</td></tr></table> <p><b><u>2012-13</u></b></p> <p>Assessment for the year 2012-13 was completed on 08.12.2015</p> <table><tr><td>compounded tax due</td><td>Rs.1,20,000.00</td></tr><tr><td>Tax paid</td><td>Rs. 25,000.00</td></tr><tr><td colspan="2">-----</td></tr><tr><td>Balance due</td><td>Rs. 95,000.00</td></tr><tr><td>Interest due</td><td>Rs. 26,600.00</td></tr><tr><td colspan="2">-----</td></tr><tr><td>Total due</td><td><b>Rs.1,21,600.00</b></td></tr></table> <p>Paid :Rs.31600/- (as per chalan No. 206 dt. 20.02.2016), Rs.25000/- (as per chalan No.233 dt.21.03.2016), Rs.25000/- (as per chalan No.230</p>	compounded tax due	Rs.1,00,000.00	Tax paid	Rs. 25,000.00	-----		Balance due	Rs. 75,000.00	Cess due	Rs. 750.00	Interest due	Rs. 30,300.00	-----		Total due	<b>Rs.1,06,050.00</b>	Total paid	<b>Rs. 1,09,300/-</b>	=====		compounded tax due	Rs.1,20,000.00	Tax paid	Rs. 25,000.00	-----		Balance due	Rs. 95,000.00	Interest due	Rs. 26,600.00	-----		Total due	<b>Rs.1,21,600.00</b>
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Total due	<b>Rs.1,21,600.00</b>																																			

		<p>dt.10.6.2016) , Rs.43550/-(as per chalan No.165 dt.19.09.2016 )</p> <p style="text-align: right;">----- <b>Rs.1,25,150/-</b> =====</p> <p><b><u>2013-14</u></b></p> <p>Assessment for the year 2013-14 was completed on 08.12.2015</p> <table><tr><td>compounded tax due</td><td>Rs.1,20,000.00</td></tr><tr><td>Tax paid</td><td>Rs. 1,2000.00</td></tr><tr><td></td><td>-----</td></tr><tr><td>Balance due</td><td><b>Rs. NIL</b></td></tr></table>	compounded tax due	Rs.1,20,000.00	Tax paid	Rs. 1,2000.00		-----	Balance due	<b>Rs. NIL</b>
compounded tax due	Rs.1,20,000.00									
Tax paid	Rs. 1,2000.00									
	-----									
Balance due	<b>Rs. NIL</b>									



Para No.	Gist of the Case	Present Position						
2.6.1 Sl.No.30	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>30.P J P Granites</u></b>  <b><u>(32080835935)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, Chalakkudy</u></b></p> <p>The objection pointed out by the audit team on 20-09-2015 is that from the records of KSPCB, the assessee had consent to operate two primary crusher and two secondary crusher. But as per the annual returns filed the assessee had returned four secondary crushers and paid tax accordingly. The dealer had not disclosed the existence of the primary crusher. Hence as per the audit report of the Accountant General there are 6 machines (4 secondary and 2 primary) and the under report of primary crushers has resulted short remittance of tax due for these years .</p> <p>As per returns the assessee had opted and ordered for payment of tax under compounding scheme U/s 8(b) of the KVAT Act 2003 and disclosed metal crushing unit with 4 secondary machines. The Assessing Authority visited the crushing unit on 23-07-2010 and without ascertaining the functions of the machines had assessed the 4 machines of sizes 16"X9"---- 2Nos and 20"X12"---- 2Nos as secondary machines.</p> <p>Aggrieved by this compounding order the assessee filed appeal before the Assistant Commissioner (Appeals), Thrissur on the ground that out of the 4 secondary machines the two machines of size 20"X12" was used as primary machines and the learned appellate authority observed that the matter requires re examination in the hands of the assessing authority and set aside and remitted back to the assessing authority for fresh disposal after ascertaining the actual number of primary machines functioning in the unit and order accordingly. In the light of the appellate order the assessing authority inspected the crusher unit and conducted physical verification of machines used in the crusher unit. On verification it is seen that the assessee have installed 4 machines of the following jaw sizes.</p> <table border="1"> <thead> <tr> <th>Sl.No.</th><th>Jaw Size</th><th>No.of Machines</th></tr> </thead> <tbody> <tr> <td>1</td><td>16"*9"</td><td>2 Nos.</td></tr> </tbody> </table>	Sl.No.	Jaw Size	No.of Machines	1	16"*9"	2 Nos.
Sl.No.	Jaw Size	No.of Machines						
1	16"*9"	2 Nos.						

		(secondary)
2	20"*12"	2 Nos.(primary)
		4 Nos

The machine having jaw size of 20"\*12" inches doing the primary function of unit ie; converting the larger size of rubbles deposited in the machinery into smaller sizes and there after feeding the requirements of other set of machinery ie; secondary machineries having jaw size of 16"\*9" inches. These secondary machines are producing various size of small metals like 3/4, 6mm etc. The Intelligence Officer, Squad No.1, Commercial Taxes, Thrissur after inspecting the crusher unit on 14-03-2014 have also revealed that the unit is having 2 primary machines and 2 secondary machines. Hence in the light of the Appellate Order, the compounding order modified and re-fixed. In the above circumstances no short levy of tax and interest as alleged in the audit objections .

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.31	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB /Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>31. K.J. Vasudevan Nair Granites (32080795435)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, III Circle, Thrissur</u></b></p> <p><b><u>2009-10</u></b>  Assessment for the year 2009-10 was completed on 24.09.2016. Aggrieved by this assessment order, the assessee preferred Appeal before the Deputy Commissioner (Appeals), Thrissur and the Appellate Authority passed Appellate orders vide KVATA Nos.911/16 (2009-10), dated 25.11.2016 with the result 'Remanded' for fresh disposal.  After issuing Form 17A and pre-assessment notice and by giving ample time for personal hearing, remanded assessment was completed as per order No.32080795435 (Remanded) for the year 2009-10 dated 29.01.2020 and penalty orders were also issued. Again the assessee filed appeal against the assessment order before the Joint Commissioner (Appeals), Thrissur and the Appellate Authority allowed the appeals setting aside the assessment orders vide order KVAT No.127/20 (2009-10), dated 25.11.2020 of Joint Commissioner (Appeals), Thrissur. Also the Appellate Authority quashed the penalty orders by allowing contentions raised by the dealer with the orders KVAT Nos.308/20(2009-10) dated 25.11.2020 of the Joint Commissioner (Appeals), Thrissur. In the circumstances second appeal was filed against the orders of first appellate authority.</p> <p><b><u>2010-11</u></b>  Assessment for the year 2010-11 was completed on 24.09.2016. Aggrieved by this assessment order, the assessee preferred Appeal before the Deputy Commissioner (Appeals), Thrissur and the Appellate Authority passed Appellate orders vide KVATA No. 912/16(2010-11) dated 25.11.2016 with the result 'Remanded' for fresh disposal.  After issuing Form 17A and pre-assessment notice and by giving ample time for personal hearing, remanded assessment was completed as per order No.32080795435 (Remanded) for the year 2010-11 dated 29.01.2020 and penalty orders were also issued. Again the assessee filed appeal against the</p>

	<p>assessment order before the Joint Commissioner (Appeals), Thrissur and the Appellate Authority allowed the appeals setting aside the assessment order vide order KVAT No.128/20(2010-11) dated 25.11.2020 of Joint Commissioner (Appeals), Thrissur. Also the Appellate Authority quashed the penalty orders by allowing contentions raised by the dealer with the orders KVAT Nos.309/20(2010-11) dated 25.11.2020 of the Joint Commissioner (Appeals), Thrissur. In the circumstances second appeal was filed against the orders of first appellate authority.</p> <p><b><u>2011-12</u></b></p> <p>Assessment for the year 2011-12 was completed on 24.09.2016. Aggrieved by this assessment order, the assessee preferred Appeal before the Deputy Commissioner (Appeals), Thrissur and the Appellate Authority passed Appellate orders vide KVATA Nos. 913/16 (2011-12) dated 25.11.2016 with the result 'Remanded' for fresh disposal.</p> <p>After issuing Form 17A and pre-assessment notice and by giving ample time for personal hearing, remanded assessment was completed as per order No.32080795435 (Remanded) for the year 2011-12 dated 29.01.2020 and penalty orders were also issued. Again the assessee filed appeal against the assessment order before the Joint Commissioner (Appeals), Thrissur and the Appellate Authority allowed the appeals setting aside the assessment order vide orders KVAT No.129/20(2011-12) dated 25.11.2020 of Joint Commissioner (Appeals), Thrissur. Also the Appellate Authority quashed the penalty orders by allowing contentions raised by the dealer with the orders KVAT Nos.310/20(2011-12) dated 25.11.2020 of the Joint Commissioner (Appeals), Thrissur. In the circumstances , second appeal was filed against the orders of the first appellate authority.</p> <p><b><u>2012-13</u></b></p> <p>Assessment for the year 2012-13 was completed on 24.09.2016. Aggrieved by this assessment order, the assessee preferred Appeal before the Deputy Commissioner (Appeals), Thrissur and the Appellate Authority passed Appellate orders vide KVATA Nos.914/16(2012-13) dated 25.11.2016 with the result 'Remanded' for fresh disposal.</p>
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	<p>After issuing Form 17A and pre-assessment notice and by giving ample time for personal hearing, remanded assessment was completed as per orders No.32080795435 (Remanded) for the year 2012-13 dated 29.01.2020 and penalty orders were also issued. Again the assessee filed appeal against the assessment order before the Joint Commissioner (Appeals), Thrissur and the Appellate Authority allowed the appeals setting aside the assessment order vide order KVAT No.130/20(2012-13), dated 25.11.2020 of Joint Commissioner (Appeals), Thrissur. Also the Appellate Authority quashed the penalty orders by allowing contentions raised by the dealer with the orders KVAT Nos.311/20(2012-13) dated 25.11.2020 of the Joint Commissioner (Appeals), Thrissur. In the circumstances second appeal was filed against the orders of first appellate authority.</p> <p><b><u>2013-14</u></b></p> <p>Assessment for the year 2013-14 was completed on 24.09.2016. Aggrieved by this assessment order, the assessee preferred Appeal before the Deputy Commissioner (Appeals), Thrissur and the Appellate Authority passed Appellate orders vide KVATA Nos.915/16 (2013-14) dated 25.11.2016 with the result 'Remanded' for fresh disposal.</p> <p>After issuing Form 17A and pre-assessment notice and by giving ample time for personal hearing, remanded assessment was completed as per orders No.32080795435 (Remanded) for the year 2013-14 dated 29.01.2020 and penalty orders were also issued. Again the assessee filed appeal against the assessment order before the Joint Commissioner (Appeals), Thrissur and the Appellate Authority allowed the appeals setting aside the assessment order vide order KVAT Nos.131/20(2013-14) dated 25.11.2020 of Joint Commissioner (Appeals), Thrissur. Also the Appellate Authority quashed the penalty orders by allowing contentions raised by the dealer with the orders KVAT Nos.312/20(2013-14) dated 25.11.2020 of the Joint Commissioner (Appeals), Thrissur. In the circumstances second appeal was filed against the orders of first appellate authority.</p>
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Para No.	Gist of the Case	Present Position																
2.6.1 Sl.No.32	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPC B/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>32. Marbles &amp; Minerals</u></b> <b><u>(32224550809)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Irinjalakkuda</u></b></p> <p><b><u>2009-10 &amp; 2010-11</u></b> Based on the audit objection, the assessment for the years 2009-10 &amp; 2010-11 have been completed under section 25(A) of the KVAT Act creating an additional demand of Rs.10,48,183/- (Tax:Rs.5,43,100/-, Interest:Rs.5,05,083/-) for the year 2009-10 and Rs.9,10,702/-(Tax:Rs.5,03,150/-, Interest:4,07,552/-) for the year 2010-11. Aggrieved by this order the dealer filed WPC No.11434/2018 before the Hon'ble High Court of Kerala. As per the judgement dated 21.08.2019 the findings of the Hon'ble High Court as follows " The notice impugned in the writ petition is set aside by following the judgement dated 19.07.2018 in WA 230/17". The state filed SLP(c) No. 28848/2019 against the judgement dated 21.08.2019 of Hon'ble High Court in WPC 11434/18 fled by M/s.Marbles and Minerals, Chengaloor. SLP No. 28848/2019 IN WP(C)11434/98 was dismissed on 02.08.2023 by the Hon'ble Supreme Court of India.</p> <p><b><u>2011-12, 2012-13 &amp; 2013-14</u></b> The assessment for the years 2011-12, 2012-13 and 2013-14 have been completed invoking section 25(1) read with section 25(A) of the KVAT Act creating additional demand shown below:-</p> <table><tr><th>Year</th><th>Tax</th><th>Interest</th><th>Total</th></tr><tr><td>2011-12</td><td>5,08,200/-</td><td>3,50,658/-</td><td>8,58,858/-</td></tr><tr><td>2012-13</td><td>5,80,000/-</td><td>3,30,600/-</td><td>9,10,600/-</td></tr><tr><td>2013-14</td><td>1,80,000/-</td><td>81,000/-</td><td>2,61,000/-</td></tr></table> <p>Aggrieved by this orders the dealer filed appeal before the Joint Commissioner (appeals), Thrissur and the Appellate Authority allowed the appeals as per Order No.KVATA 4/2018, 5/2018 and 6/2018 dated 29.01.2020.</p>	Year	Tax	Interest	Total	2011-12	5,08,200/-	3,50,658/-	8,58,858/-	2012-13	5,80,000/-	3,30,600/-	9,10,600/-	2013-14	1,80,000/-	81,000/-	2,61,000/-
Year	Tax	Interest	Total															
2011-12	5,08,200/-	3,50,658/-	8,58,858/-															
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Para No.	Gist of the Case	Present Position																								
2.6.1 Sl.No.33	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>33.Panthalookkaran Granites (32080922594)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Irinjalakkuda</u></b></p> <p>On the basis of the audit objection, the assessment for the years 2009-10 to 2013-14 have been completed invoking section 25(A) of the KVAT Act. The details are as under.</p> <table><tr><th>Year</th><th>Tax</th><th>Interest</th><th>Total</th></tr><tr><td>2009-10</td><td>4,54,500/-</td><td>4,36,320/-</td><td>8,90,820/-</td></tr><tr><td>2010-11</td><td>4,24,200/-</td><td>3,56,328/-</td><td>7,80,528/-</td></tr><tr><td>2011-12</td><td>4,24,200/-</td><td>3,05,424/-</td><td>7,29,624/-</td></tr><tr><td>2012-13</td><td>4,80,000/-</td><td>2,88,000/-</td><td>7,68,000/-</td></tr><tr><td>2013-14</td><td>4,80,000/-</td><td>2,30,400/-</td><td>7,10,400/-</td></tr></table> <p>Aggrieved by this orders the dealer filed WPC No.20706/2018 before the Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala has dismissed the writ petition filed by the assessee for the years 2009-10 to 2013-14. The dealer opted amnesty scheme 2020-2021 and paid Rs.9,05,160/- as per chalan No. KL015452658202021E dated 31.12.2020.</p>	Year	Tax	Interest	Total	2009-10	4,54,500/-	4,36,320/-	8,90,820/-	2010-11	4,24,200/-	3,56,328/-	7,80,528/-	2011-12	4,24,200/-	3,05,424/-	7,29,624/-	2012-13	4,80,000/-	2,88,000/-	7,68,000/-	2013-14	4,80,000/-	2,30,400/-	7,10,400/-
Year	Tax	Interest	Total																							
2009-10	4,54,500/-	4,36,320/-	8,90,820/-																							
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2012-13	4,80,000/-	2,88,000/-	7,68,000/-																							
2013-14	4,80,000/-	2,30,400/-	7,10,400/-																							

Para No.	Gist of the Case	Present Position												
2.6.1 Sl.No.34	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>34. Jayam Sands &amp; Gravel (P) Ltd. (32080965456)</u></b> <b><u>2012-13 &amp; 2013-14</u></b> <b><u>CTO, Irinjalakkuda</u></b></p> <p>On the basis of the audit objection, the assessment for the years, 2012-13 and 2013-14 have been completed invoking section 25(1) read with section 25(A) of the KVAT Act. The details are as under:-</p> <table><tr><th>Year</th><th>Tax</th><th>Interest</th><th>Total</th></tr><tr><td>2012-13</td><td>9,60,000/-</td><td>5,56,800/-</td><td>15,16,800/-</td></tr><tr><td>2013-14</td><td>9,60,000/-</td><td>4,41,600/-</td><td>14,01,600/-</td></tr></table> <p>Aggrieved by this order the dealer filed WPC No.9531//2019 before the Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala has stayed the recovery proceedings for the year 2012-13 and 2013-14. The dealer filed appeal before the Joint Commissioner (Appeals), Thrissur and the learned Appellate Authority allowed the appeals as per Order No. KVATA 213/2019 dated 18.08.2020 and 214/2019 dated 18.08.2020. The assessing authority filed second appeal against the appellate order dated 18.08.2020 of the Joint Commissioner (appeals). Second appeal pending before KVATA Ernakulam.</p>	Year	Tax	Interest	Total	2012-13	9,60,000/-	5,56,800/-	15,16,800/-	2013-14	9,60,000/-	4,41,600/-	14,01,600/-
Year	Tax	Interest	Total											
2012-13	9,60,000/-	5,56,800/-	15,16,800/-											
2013-14	9,60,000/-	4,41,600/-	14,01,600/-											



Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.35	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>35. Thomson Granites (32080244523)</u></b>  <b><u>2010-11</u></b>  <b><u>CTO, Special Circle, Thrissur</u></b></p> <p>The Audit Enquiry regarding the short levy of tax due to non-disclosing the turnover from the cone crusher for the year 2010-11 is based on 3 reasons:-</p> <ol style="list-style-type: none"> <li>1. Addition in Fixed Assets towards the installation of a cone crusher valued Rs.1,54,76,040/- and the claim of depreciation at 40% in the year 2010-11. The claim of depreciation means the assessee has put to use the cone crusher in the year 2010-11 itself.</li> <li>2. The consent to operate the cone crusher from KSPCB was obtained as per the order dated 05.09.2012 only, whereas the assessee has remitted tax on the cone crusher during 2011-12 itself, which means the cone crusher has been put to use before the date of consent.</li> <li>3. There is significant increase (49%) in turnover for the year 2010-11 compared to 2009-10, which is attributable to the installation of cone crusher.</li> </ol> <p>The above objections were examined calling for the books of accounts and verifying the same and hearing the explanations of the dealer on the above points. Based on the verification of the books of accounts, the assessment records and the documents produced by the assessee and the explanations offered, the following remarks are offered in reply to the audit enquiry.</p> <p><b><u>Point No.1 – Claim of Depreciation</u></b></p> <p>The installation of the new cone crusher was during the year 2010-11. The assessee as per letter dated 19.03.2011 had intimated the replacement of old secondary machine 4 Nos. and 1 primary machine with a new primary machine and a cone crusher as part of the process of ‘modernization’. Then the assessing authority based on this intimation had conducted an enquiry at the business place of the assessee on 24.03.2011 and found that the old machine has been demolished and a new cone crusher imported from Malaysia has been installed and certified that the trial run of this cone crusher was going on at the</p>

	<p>time of the visit. The enquiry report was available at the assessment records, which the Audit Party has failed to take note of.</p> <p>It is true that the assessee had claimed depreciation of 40% of the value of the new machinery during 2010-11, even though commercial production had not been started during 2010-11. But as revealed from the enquiry report of the assessing authority available in the assessment records, the assessee had undertaken trial run of the machinery during the year 2010-11 itself.</p> <p>It is explained by the assessee that for proper setting and alignment, various parts of the machinery have to be adjusted again and again after certain hours of continued running of the machine to attain the desired perfection. The assessee company have also filed copies of registration certificates in Form S granted by the Director of Mining and Geology for the year 2009-10, 2010-11 and 2011-12. The Geology Department are issuing the orders after spot inspection every year. The type of machinery used in the factory have been specifically stated in the compounding orders for each year. As per this, the following machineries are installed:</p> <p><b><u>2009-10 &amp; 2010-11</u></b>  Jaw size 91.44cm x 20.32 cm (36" x 8") = 3Nos  60.96 cm x 15.24 cm (24" x 6") = 1 No.</p> <p><b><u>2011-12</u></b>  Cone Crusher with height 1630 cm and diameter 990 mm  = 1 No.</p> <p>As per the Registration certificate in form S for the year 11-12 dated 25.03.11, the cone crusher is installed during the year 2010-11.</p> <p>The issue whether trial production taken place in one year and commercial production taken place in subsequent year, then depreciation in respect of plant &amp; machinery is to be allowed in the year in which mere trial production take place and subsequent year in which undertaking begins to manufacture articles, becomes initial year for allowing</p>
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		<p>deduction under section 80-1A, has been considered by the Pune Bench of the I.T. Appellate Tribunal in the case of Deputy Commissioner of Income Tax V/s Finolex Cables Ltd and held that the allowance of depreciation in the year of Trial Run in fully in order. The assessee also placed reliance on the decision of the order of the Hon'ble High Court of Allahabad reported in (2010) 236 CTR(All) 329, (2010) 326 ITR 297 Commissioner of Income Tax Vs Mentha Allied products.</p> <p>In V.K.Rajendran Vs Assessee (ITA No.823/Mds/2011 dated 25-06-2012, the depreciation claimed by the assessee for the trial run of the wind mill, though commercial production was not started, has been upheld by the Income Tax Appellate Tribunal, Chennai on its Judgment dated 25-06-2012.</p> <p>The Hon'ble High Court of Calcutta in Commissioner of Income Tax V/s .E.I.H Ltd (2011) 54 DTR (Cal) 249 dtd.31-03-2011, have ratified the claim of allowing depreciation on the purchase of an air craft during the year of receiving the documents of the Aircraft, though physical handling over was not carried out during the year.</p> <p>In view of the decision of the Income Tax Appellate Tribunal and order of the Hon'ble High Courts of Calcutta and Allahabad, the depreciation claimed by the assessee during the year of Trial Run (2010-11) is found to be in order.</p> <p><b><u>Point No.2: – Consent from KSPCB</u></b></p> <p>With regard to the order of the Kerala State Pollution Control Board dtd.05-09-2012, it is explained that the assessee had commenced operation of the Cone Crusher before obtaining the consent to operate and they had applied for replacement of machinery before KSPCB on 17-08-2010. As soon as the erection process was completed, they had intimated the same to KSPCB and Mining &amp; Geology Department. It is stated that with a view not to keep the machinery idle, which is purchased spending lakhs of rupees, as per the oral direction from KSPCB that the formal sanction letter will follow, production was started w.e.f 01.04.2011. It</p>
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	<p>may kindly be noted that the commencement of production during the year 2011-12 and remitting tax during the year 11-12 on the crusher are not sufficient grounds to draw an inference that the machinery has been put to use during the year 2010-11.</p> <p><b><u>Point No.3 :- Disproportionate increase in the turnover in the year 2010-11</u></b></p> <p>Another point raised in the audit objection for escape of turnover is the significant increase (49%) in the turnover during the year 2010-11 compared to 2009-10. The turnover for the year 2009-10 was Rs.9,28,93,358/- compared to the turnover of Rs.13,81,03,313/- resulting in an increase of Rs.4,52,09,955/-. This has been attributed in the audit enquiry due to the installation of a cone crusher during the year 2010-11. This increase in turnover has been explained by the assessee due to the following reasons.</p> <p>The assessee has purchased and installed one Bucket Wheel Classifier (sand machine) for Rs.7,71,398/- during the year 2009-10 as evidenced from the Fixed Assets forming part of the Balance Sheet. This machine is used for making below 3mm aggregate. It is stated that due to poor demand for 20 mm, 12 mm and 6 mm aggregate, the assessee were tempted to embark upon installation of the new machine which mainly produce 3 mm aggregates. As a result of this, the production of below 3 mm aggregates was increased by 10419 units. Due to the increase in production and sale of below 3 mm aggregate, the assessee company was able to secure an increase in sale of Rs.4,68,85,500/- compared to immediate previous year. The enhancement of sales turnover during the year 2010-11 is attributable to this reason and not due to commencement of use of Cone-Crusher during 2010-11. It may also be noted that the sales value of the products have been considerably increased in the year 2010-11 compared to the previous year which is also yet another reason for the increase in turnover.</p> <p>The production and turnover of the assessee has considerably enhanced prior to and after the installation</p>
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		<p>of the cone crusher as shown below:</p> <p>Turnover During 2010-11 (before installation of Cone Crusher) - Rs.13,81,03,313/-</p> <p>Turnover During 2011-12 (after installation) - Rs.25,60,91,104/-</p> <p>From the above figures, it can be seen that the turnover has nearly doubled after the installation of the new machinery. While the increase in turnover during the year 2010-11 compared to the year 2009-10 was Rs.4,52,09,955/-, the increase in turnover in 2011-12 from the previous year consequent of installation of the cone crusher was Rs.11,79,87,791/-. Hence the adverse inference drawn for the increase of turnover during the year 2010-11 compared to 2009-10 is not sustainable.</p>
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Para No.	Gist of the Case	Present Position																												
2.6.1 Sl.No.36	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>36.Blue Mountain Granites (32080985302)</u></b> <b><u>2010-11 to 2013-14</u></b> <b><u>CTO, Special Circle, Thrissur</u></b></p> <p>The assessment in respect of M/s. Blue Mountain Granites, Vellikulangara, Thrissur for the years 2010-11 to 2013-14 were completed vide order nos.32080985302/2010-11 to 2013-14 dated 30.06.2016 by considering the defect pointed out by the Accountant General. Then penalty u/s 67(1) confirmed as per order No.32080985302/2010-11 to 2013-14 dated 27.11.2017. The details of assessment are shown below:</p> <table><tr><th rowspan="2">Year</th><th colspan="3">Demand Created:</th><th rowspan="2">Total (Tax + Interest)</th></tr><tr><th>Tax</th><th>Interest</th><th>Penalty</th></tr><tr><td>2010-11</td><td>13,10,475.00</td><td>8,25,599.00</td><td>26,20,950.00</td><td>21,36,074.00</td></tr><tr><td>2011-12</td><td>8,48,400.00</td><td>4,32,684.00</td><td>16,96,800.00</td><td>12,81,084.00</td></tr><tr><td>2012-13</td><td>9,60,000.00</td><td>3,74,400.00</td><td>19,20,000.00</td><td>13,34,400.00</td></tr><tr><td>2013-14</td><td>9,60,000.00</td><td>2,59,200.00</td><td>19,20,000.00</td><td>12,19,200.00</td></tr></table> <p>RRCs were issued for the above years on 30.08.2016 and 23.12.2017. As per WP(C) No.516/18 dated 08.01.2018 of the Hon'ble High Court of Kerala stayed all further proceedings. As per Order No.KVAT 2624/2016 dtd 24.07.2016, KVAT 2625/2016 dtd 24.07.2016, KVAT 2626/2016 dtd 22.07.2016 and 2627/2016 dtd 22.07.2016 of DC(A) Thrissur, the assessee remitted Rs.2,62,095.00 as tax for the year 2010-11 as per chalan No.292/20.09.2016, Rs.1,69,680.00 as tax for the year 2011-12 as per chalan No.294/20.09.2016,</p>	Year	Demand Created:			Total (Tax + Interest)	Tax	Interest	Penalty	2010-11	13,10,475.00	8,25,599.00	26,20,950.00	21,36,074.00	2011-12	8,48,400.00	4,32,684.00	16,96,800.00	12,81,084.00	2012-13	9,60,000.00	3,74,400.00	19,20,000.00	13,34,400.00	2013-14	9,60,000.00	2,59,200.00	19,20,000.00	12,19,200.00
Year	Demand Created:			Total (Tax + Interest)																										
	Tax	Interest	Penalty																											
2010-11	13,10,475.00	8,25,599.00	26,20,950.00	21,36,074.00																										
2011-12	8,48,400.00	4,32,684.00	16,96,800.00	12,81,084.00																										
2012-13	9,60,000.00	3,74,400.00	19,20,000.00	13,34,400.00																										
2013-14	9,60,000.00	2,59,200.00	19,20,000.00	12,19,200.00																										

		Rs.1,92,000.00 as tax for the year 2012-13 as per chalan No.296/20.09.2016 and Rs.1,92,000.00 as per chalan No.297/20.09.2016. The Appellate Authority allowed the appeals filed against assessment orders and penalty orders in favour of the assessee as per Order No. KVAT 2624/16 to 2627/16 dtd 25.6.2020 and 998/17 to 1001/17 dtd 25.06.2020 respectively. In the circumstances, the assessing authority filed second appeal before the Hon'ble Appellate Tribunal, Ernakulam against Appellate orders for whole years. Second appeal filed before the KVAT Ernakulam is pending.
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Para No.	Gist of the Case	Present Position																				
2.6.1 Sl.No.37	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mineral and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>37. Esskay Industries (32081361096)</u></b> <b><u>2009-10, 2012-13 &amp; 2013-14</u></b> <b><u>CTO, Special Circle, Thrissur</u></b></p> <p>The assessment in respect of M/s.Esskay Industries, Thayyoor for the year 2009-10 vide order no. 32081361096/09-10 dtd.19.02.2016, for the years 2012-13 &amp; 2013-14 vide orders No.32081361096/2012-13 and 32081361096/2013-14 dtd. 11.05.2016. The details are as follows:</p> <table><tr><th>Year</th><th>Tax</th><th>Cess</th><th>Interest</th><th>Total</th></tr><tr><td>2009-10</td><td>2,25000/-</td><td>2,250/ -</td><td>1,61,348/ -</td><td>3,88,598/ -</td></tr><tr><td>2012-13</td><td>4,80,000/-</td><td></td><td>1,82,400/ -</td><td>6,62,400/ -</td></tr><tr><td>2013-14</td><td>31,80,000/ -</td><td></td><td>8,26,800/ -</td><td>40,06,800/-</td></tr></table> <p>The assessee has remitted Rs.1,16,000/- vide DD No.424675 dated 11.05.2016, Federal Bank at Perumbavoor for the year 2009-10. (Chalan enclosed) The balance amount is under RR. As per WP(C)No.21052/2016 dated 21.06.2016 the Honourable High Court of Kerala stayed all recovery proceedings till the disposal of appeal before DC(Appeal), Thrissur. The appeal dismissed as per Order No.1544/16 (2009-10),1835/16 (2012-13),1835/16 dated 20.12.2019 of JC(Appeals), Thrissur. Thereafter, the Assessing Authority issued Arrear notice (Form No.12A) to the assessee for balance amount remittance and RRCs were issued for the balance amount to District Collector Ernakulam on 19.07.2021.</p> <p><b><u>2009-10</u></b> RRC No.1/2021-22-Req-2021/4720/08 dated 19.07.2021, Rs.3,74,723/-, RRC issued to Dist. Collector, Ernakulam, Demand notices served by the</p>	Year	Tax	Cess	Interest	Total	2009-10	2,25000/-	2,250/ -	1,61,348/ -	3,88,598/ -	2012-13	4,80,000/-		1,82,400/ -	6,62,400/ -	2013-14	31,80,000/ -		8,26,800/ -	40,06,800/-
Year	Tax	Cess	Interest	Total																		
2009-10	2,25000/-	2,250/ -	1,61,348/ -	3,88,598/ -																		
2012-13	4,80,000/-		1,82,400/ -	6,62,400/ -																		
2013-14	31,80,000/ -		8,26,800/ -	40,06,800/-																		



		<p>RR authorities on 24.03.2022.</p> <p><b>2012-13</b></p> <p>RRC No.2/2021-22-Req-2021/4724/08 dated 19.07.2021, Rs.9,58,448/-, RRC issued to Dist. Collector, Ernakulam, Demand notices served by the RR authorities on 24.03.2022.</p> <p><b><u>2013-14</u></b></p> <p>RRC No.3/2021-22-Req-2021/4725/08 dated 19.07.2021, Rs.59,68,119/-, RRC issued to Dist. Collector, Ernakulam, Demand notices served by the RR authorities on 24.03.2022.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.38	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPC B/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>38. Three Star Granites (32081274235)</u></b>  <b><u>2009-10 &amp; 2010-11</u></b>  <b><u>CTO, Special Circle, Thrissur</u></b></p> <p><b><u>2009-10</u></b></p> <p>The assessment in respect of M/s.Three Star Granites for the year 2009-10 was completed vide order no. 32081274235/2009-10 dated 20.10.2016 by considering the defect pointed out by the Accountant General. By creating Tax as Rs.6,32,736.00, Cess Rs.6,327.00 and interest Rs.4,98,469. As per Appellate Order No.KVATA 3827/16 dated 20.03.2017 directed to verify the documents and re-do the assessment fresh.</p> <p>As per the direction of DC (Appeal) Thrissur, Assessing authority verified the certificate issued by the Mining and geology Dept., Thiruvananthapuram dated 24.03.2009 and proved that the dealer has used 5 units of Secondary Crushers (size No. 48 X 9 = 2 Nos., 16 x 9 = 3 Nos ) only for the years 2009-10 &amp; 2010-11.The Certificate issued by the Mining and Geology Dept. is a primary evidence after conducted the plot inspection. The dealer has not produced the Certificate received from the Mining and Geology Dept. at the time of original assessment. Besides that the permission for Compounding order was also issued by the dept. after inspection of the business premises then and there. When considering these facts, it is evident that the dealer has not under reported the secondary machineries and used only 5 secondary machineries for the years 2009-10 &amp; 2010-11. Also on verification of the Certificates produced by the dealer issued by Director, Mining &amp; Geology Dept., dated 24.03.2009 &amp; 30.03.2010 it is found that there are 3 nos of Size II secondary machinesand 2nos of size III secondary machines. Hence there is no tax evasion during the years 2009-10 &amp; 2010-11. On the basis of the above, the original assessment modified for the assessment year 2009-10 as per the Order No.32081274235/2009-10 dated 26.06.2017 with balance tax due 'NIL'. Hence no penalty in these cases are warranted. Hence Appellate Authority decided the Audit Objection is not sustainable.</p>

**2010-11**

The assessment in respect of M/s.Three Star Granites for the year 2010-11 was completed vide order no. 32081274235/2010-11 dated 20.10.2016 by considering the defect pointed out by the Accountant General. By creating tax Rs.6,15,300.00, cess Rs.6,153.00 and interest of Rs. 4,10,150.00. As per Appellate Order No. KVATA 3828/16 dated 20.03.2017 directed to verify the documents and re-do the assessment fresh.

As per the direction of DC (Appeal) Thrissur, Assessing authority verified the certificate issued by the Mining and geology Dept., Thiruvananthapuram dated 24.03.2009 and proved that the dealer has used 5 units of Secondary Crushers (size No. 48 X 9 = 2 Nos., 16 x 9 = 3 Nos ) only for the years 2009-10 & 2010-11. The Certificate issued by the Mining and Geology Dept. is a primary evidence after conducted the plot inspection. The dealer has not produced the Certificate received from the Mining and Geology Dept. at the time of original assessment. Besides that the permission for Compounding order was also issued by the dept. after inspection of the business premises then and there. When considering these facts, it is evident that the dealer has not under reported the secondary machineries and used only 5 secondary machineries for the years 2009-10 & 2010-11. Also on verification of the Certificates produced by the dealer issued by Director, Mining & Geology Dept., dated 24.03.2009 & 30.03.2010 it is found that there are 3 nos of Size II secondary machines and 2 nos of size III secondary machines. Hence there is no tax evasion during the years 2009-10 & 2010-11. On the basis of the above, the original assessment modified for the assessment year 2011-12 as per the Order No.32081274235/2011-12 dated 26.06.2017 with balance tax due 'NIL'. Hence no penalty in these cases are warranted. Hence Appellate Authority decided the Audit Objection is not sustainable.

Para No.	Gist of the Case	Present Position
<b>2.6.1</b> <b>Sl.No.39</b>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p style="text-align: center;"><b><u>39. Rajumon Granites (32081374697)</u></b>  <b><u>2012-13</u></b>  <b><u>CTO, Wadakkancherry</u></b></p> <p>Assessment in respect of M/s. Rajumon Granites, Thiruvilwamala for the year 2012-13, has been completed vide order No.32081374697/12-13 dated 09.01.2017 considering the defect pointed out by the Accountant General, by creating an additional demand of tax Rs.3,30,000.00 and interest Rs.1,48,500.00. Aggrieved by this order the dealer filed appeal before the Joint Commissioner(Appeals),Thrissur. The Appellate Authority vide order No.575/2017 dated 29/1/2020 directed to modify the assessment order. The assessment order was modified as per order No.32081374697/2012-13 dated 13.08.2020 of State Tax Officer, Wadakkancherry. The new demand was Tax:Rs.2,64,000.00 and Interest: Rs.2,65,980.00. The dealer remitted Rs.66,000.00 as per chalan No.3719913/04.07.2017. An Excess amount of Rs.48,000.00 adjusted from the assessment year 2013-14 to 2012-13. The dealer opted Amnesty Scheme 2020 and paid an amount of Rs.86,400.00 as per chalan No.KL013454984202021E dated 30-11-2020. There is no arrears outstanding against the dealer for the year 2012-13.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.40	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB /Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>40. Shakti Granites</u></b>  <b><u>(32081377814)</u></b>  <b><u>2010-11 to 2013-14</u></b>  <b><u>CTO, Wadakkancherry</u></b></p> <p><b><u>2010-11</u></b>  Assessment in respect of M/s.Sakthi Granites, Chelakkara for the year 2010-11 has been completed vide order No.32081377814/10-11 dated 27.02.2017 considering the defect pointed out by the Accountant General, by creating an additional demand of tax Rs.1,38,050.00 and interest Rs.98,016.00. Aggrieved by this order the dealer filed appeal before the Deputy Commissioner(Appeals), Thrissur. The Appellate Authority set aside the assessment order vide order No.KVATA 334/18 dated 28/2/2019. The Assessing Authority modified the assessment order as Per order No.32081377814/10-11 dated 30/10/19 as NIL demand/excess amount paid by the dealer. At present there is no arrears outstanding against the dealer for the year 2010-11.</p> <p><b><u>2011-12</u></b>  Assessment in respect of M/s.Sakthi Granites, Chelakkara for the year 2011-12 has been completed vide order No.32081377814/11-12 dated 27.02.2017 considering the defect pointed out by the Accountant General, by creating an additional demand of tax Rs.1,56,800.00 and interest Rs.94,080.00. Aggrieved by this order the dealer filed appeal before the Deputy Commissioner(Appeals), Thrissur. The Appellate Authority set aside the assessment order as per order No.KVATA 331/18 dated 28/2/2019. The Assessing Authority modified the assessment order as per order No.32081377814/11-12 dated 30/10/19 as NIL demand/excess amount paid by the dealer. At present there is no arrears outstanding against the dealer for the year 2011-12.</p> <p><b><u>2012-13</u></b>  Assessment in respect of M/s.Sakthi Granites, Chelakkara for the year 2012-13 has been completed vide order No.32081377814/12-13 dated 27.02.2017 considering the</p>

		<p>defect pointed out by the Accountant General, by creating an additional demand of tax Rs.1,70,000.00 and interest Rs.79,900.00. Aggrieved by this order the dealer filed appeal before the Deputy Commissioner(Appeals), Thrissur. The Appellate Authority set aside the assessment order as per order No.KVATA 332/18 dated 28/2/2019. The Assessing Authority modified the assessment order as per order No.32081377814/12-13 dated 30/10/19 as NIL demand/ excess amount paid by the dealer. At present there is no arrears outstanding against the dealer for the year 2012-13.</p> <p><b><u>2013-14</u></b></p> <p>Assessment in respect of M/s.Sakthi Granites, Chelakkara for the year 2013-14 has been completed vide order No.32081377814/13-14 dated 27.02.2017 considering the defect pointed out by the Accountant General, by creating an additional demand of tax Rs.2,47,500.00 and interest Rs.89,100.00. Aggrieved by this order the dealer filed appeal before the Deputy Commissioner (Appeals), Thrissur. The Appellate Authority set aside the assessment order as per order No.KVATA 333/18 dated 28/2/2019. The Assessing Authority modified the assessment order as per order No.32081377814/13-14 dated 30/10/19 as NIL demand/ excess amount paid by the dealer. At present there is no arrears outstanding for the year 2013-14.</p> <p>The dealer produced the following documents as proof of evidence before the Appellate authority.1. Inspection note conducted by Pollution Control Board on their Inspection register that 25.07.2013 (inspection date) 20 HP (installed) (relates to period before 2013-14). 2. Certificate from Asst. Engineer , KSEB, Chelakkara dated 21.12.2016 which specifies that the dealer was connected with load of 18640W till 17.03.2014 3.Certificate from the Chartered Engineer detailing the load used by machinery sized 30.48*22.86cm. The letter received from the Chartered Engineer substantiates that with a connected power of 18640w which is equal to 24 HP of power load in Horse power and out of this 24 HP of Powre load one 2HP motor is required for vibrator for separating the granite metals another 2HP motor is required for conveyor for feeding tank. Remaining 20 HP is only utilised for motor running the metal crusher and that the</p>
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		<p>20HP of power is only sufficient for operating a crushing machine of 30.48*22.86cm . Considering the above facts, the appellate authority allowed the appeal filed by the dealer .Since the dealer established that they had been operating only a machinery of or below 24HP, the Assessing Authority modified the assessment order for the years 2010-11 to 2012-13 as NIL demand. For the year 2013-14, the appellate authority allowed the revision permission as per Rule 11(7) of the KVAT Rules. Considering the above, the Assessing Authority modified the assessment order for the year 2013-14 as NIL demand.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.41	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB /Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>41. Thoomkuzhy Granites (32081369962)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, Wadakkancherry</u></b></p> <p><b><u>2009-10</u></b>  Assessment in respect of Sri. Kuruvila Mathew, Thoomkuzhy Granites for the year 2009-10 has been completed vide order No.32081369962/09-10 dated 29.06.2017 considering the defect pointed out by the Accountant General, by creating an additional demand of tax Rs.2,77,750.00 and interest Rs.2,33,310.00. As per WP(c) No.26960 of 2018(T) dated 21-08-2019 of Hon'ble High Court of Kerala, the assessment order was set aside. At present there is no demand outstanding for the year 2009-10. Notice u/s 25(1) read with 25A is issued to the dealer.</p> <p><b><u>2010-11</u></b>  Assessment in respect of Sri. Kuruvila Mathew, Thoomkuzhy Granites for the year 2010-11 has been completed vide order No.32081369962/10-11 dated 29.06.2017 considering the defect pointed out by the Accountant General, by creating an additional demand of tax Rs.2,57,550.00 and Interest Rs.1,85,436.00. The dealer remitted 20% of tax (Rs.51,000.00) as per chalan No. 5034715/11.08.2017. The dealer opted Amnesty Scheme 2020 and paid Rs.82,620.00 as per chalan no. KL015149664202021E dated 28-12-2020 as one time settlement. At present there is no demand outstanding for the year 2010-11.</p> <p><b><u>2011-12</u></b>  Assessment in respect of Sri. Kuruvila Mathew, Thoomkuzhy Granites for the year 2011-12 has been completed vide order No.32081369962/11-12 dated 29.06.2017 considering the defect pointed out by the Accountant General, by creating an additional demand of tax Rs.1,80,800.00 and interest Rs.1,13,904.00. The dealer remitted 20% of tax (Rs.36,000.00) as per chalan no.5034600/11.08.2017. The dealer opted Amnesty Scheme 2020 and paid Rs.57,920.00 as per chalan</p>



		<p>No.KL015149664202021E dated 28-12-2020. At present there is no arrear outstanding for the year 2011-12.</p> <p><b><u>2012-13</u></b></p> <p>Assessment in respect of Sri. Kuruvila Mathew, Thoomkuzhy Granites for the year 2012-13 has been completed vide order No.32081369962/12-13 dated 23.01.2017 considering the defect pointed out by the Accountant General, by creating an additional demand of tax Rs.2,00,000.00 and interest Rs.92,000.00. The dealer requested to pay the arrears in installments under Rule 51. The details of payment as follows:</p> <p>Tax: Rs.33,335/- &amp; Interest:Rs.17,167/- Chalan No&amp; Date: 69878/04.04.17</p> <p>Tax:Rs.33,333/- &amp; Interest:Rs.15,500/- Chalan No &amp; Date: KL005960508/04.03.17</p> <p>Tax:Rs.33,333/- &amp; Interest:Rs.16,499/- Chalan No&amp; Date: 2642332/03.06.17</p> <p>Tax:Rs.33,333/- &amp;Interest:Rs.16,833/- Chalan No &amp; Date: 1310305/04.05.17</p> <p>Tax:Rs.33,333/- &amp; Interest:Rs.16,167/- Chalan No&amp; Date: 3828158/07.07.17</p> <p>Tax:Rs.33,333/- &amp; Interest:Rs.15,833/- Chalan No&amp; Date: 4903126/08.08.17</p> <p>At present there is no arrears outstanding for the Year 2012-13.</p> <p><b><u>2013-14</u></b></p> <p>During the year 2013-14 the offense of short accounting of the secondary machine detected by the Intelligence Officer, Squad -IV, State GST Department, Thrissur which was compounded by the dealer by remitting Compounding Fee Rs.1,50,000.00 and the tax due before the Intelligence Officer, Squad IV, State GST Department, Thrissur. Total tax due for the assessment year of the dealer is Rs.3,20,000.00 of which the dealer remitted tax Rs.1,70,000.00 through e-filing the 1<sup>st</sup> 3 quarterly returns and tax Rs.1,50,000.00 before the Intelligence Officer, Squad IV, Thrissur while compounding the offense. Hence there is no short remittance of tax in this case.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.42	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPC B/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>42. Jams Granites (P) Ltd (32081325085)</u></b>  <b><u>2012-13 &amp; 2013-14</u></b>  <b><u>CTO, Wadakkancherry</u></b></p> <p><b><u>2012-13</u></b>  Since the assessee purchased new machine only on 22.11.2013, no case established during the year 2012-13.</p> <p><b><u>2013-14</u></b>  Assessment in respect of M/s Jams Granites, Malavattom for the year 2013-14 has been completed vide order No.32081325085/2013-14 dated 30.06.2017 considering the defect pointed out by the Accountant General, by creating an additional demand of tax Rs.3,20,000.00 and interest Rs.51,200.00. Aggrieved by this order the dealer filed appeal before the Joint Commissioner(Appeals), Thrissur. The Appellate Authority dismissed the appeal as per order No. KVATA 522/17 dated 03.08.2017. The dealer opted Amnesty Scheme 2019-20 and 2020. Interest fully waived. The details of payment is as follows:  1).Tax:Rs.64,000/- Chalan No &amp; Date: 4520758 dated 25/07/2017  2).Tax:Rs.51,200/- Chalan No.KL009432204201920M dated 31/10/2019  3).Tax:Rs.51,200/- Chalan No.KL010712659201920M dated 23/11/2019  Paid under Amnesty 19-20  4).Tax:Rs.51,200/- Chalan No.KL012533042201920M dated 31/12/2019  5).Tax:Rs.51,200/- Chalan No.KL015489241201920M dated 29/2/2020.  The dealer opted Amnesty Scheme 2020, for balance arrears and paid Rs.40,960.00 vide Chalan No. KL003895101202021E dated 01/07/2020. At present there is no arrears outstanding against the dealer for the year 2013-14.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.43	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>43. CBM Enterprises (32140461418)</u></b></p> <p><b><u>2011-12</u></b></p> <p><b><u>AIT &amp; CTO Vythiri at Kalpetta</u></b></p> <p>The assessment was completed as per the order no. 32140461418/2011-12 dated 29.11.2014 and creating compounded Tax:Rs.7,50,000/-, Cess:Rs.7,500/- and Interest:Rs.2,25,000/-. Compounded tax:Rs.7,50,000/- paid as per Chalan No.170/28.03.2015 in district Treasury, Wayanad.</p> <p><b><u>Para-2</u></b></p> <p>Audit party reported short levy of Rs.5,39,00,588/- as Sales turnover of Granite Metals and M-Sand, Rs.5,20,57,188/- in turnover related to sale of M-Sand, Rs.21,03,100/- as tax due 4% with Cess and Interest u/s 31(5) &amp; (6) of KVAT Act Rs.46,294/-. Total Rs.25,65,794/- for the year 2011-12.</p> <p>During the time of assessment, the assessing authority determined taxable turnover of M-sand and Granite Metal of Rs.5,13,80,119/-, VAT due 4% Rs.20,55,205/- Cess % Rs.20,552/- and Interest Due Rs.6,16,562/- Total Rs.26,92,319/-.</p> <p>The assessee filed appeal before the Hon'ble High Court of Kerala against the order of the Assistant Commissioner, Wayanad. The Hon'ble High Court issued order WP(c) No.3784 of 2015(W) Dated 27-03-2015 by quashing the impugned notices and orders, to the extent that they demand tax on M-sand produced by the petitioners. Hence the assessment portion of Rs.26,92,319/- is deleted from the Order.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.44	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>44. Green Rock Crushers &amp; Mines (P) Ltd.</u></b>  <b><u>(32071343253)</u></b>  <b><u>2013-14</u></b>  <b><u>CTO, II Circle, Kalamassery</u></b></p> <p>During the year 2013-14, the dealer had opted to pay tax at the compounded rate under section 8(b) of KVAT Act. The audit test checked the assessment records of the dealer and found that M/s. Green Rock crushers &amp; Mines (P) Ltd. Had under-reported the size of crushing machines. The assessing authorities has not gathered the information from KSPCB for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/finalising the assessment. This resulted in a short levy of tax, interest and penalty of Rs.15.12 lakhs.</p> <p>On 17.03.2014, an inspection was conducted in the business place of the dealer by the Intelligence Officer, Squad No.I, Thrissur. On physical verification of the site, the Intelligence squad found that the assessee had installed two secondary machines of Size III(91.44*20.32 cm) and one primary crusher. But the dealer was paying compounding tax Rs.4,80,000.00 for the whole year of 2013-14 at the quarterly rate of Rs.1,20,000.00 for two secondary machine of size II (40.64*25.40 cm) and one primary machine ie. Rs.1,60,000.00*2=Rs. 3,20,000.00+Rs.1,60,000.00). The compounding fee applicable for size III secondary crusher is Rs.3,20,000.00 for single crusher and for 2 secondary crushers and one primary crusher it comes to Rs.9,60,000.00(3,20,000/-*2 = 6,40,000/- + half the rate of secondary machines ie. Rs.3,20,000.00). Thus the assessee had made a short remittance of Rs.4,80,000.00 for the year 2013-14. Accordingly a notice U/s. 67(1) of the KVAT Act has been issued to the dealer proposing to impose a penalty of Rs. 9,60,000/- being double the amount of tax sought to be evaded. On receipt of the notice the dealer filed reply before the Intelligence officer squad No.I, Thrissur in lieu of penalty. The dealer has also remitted balance compounded tax Rs.4,80,000/- vide chalan</p>

		<p>no.506/10.06.2014(DD No. 986194/4.6.2014).</p> <p>On receipt of the crime file, the assessing authority found the audit objection is sustainable and completed the assessment for the year 2013-14 under section 25(1) on 19.01.2015. As the assessee had already paid the balance compounded tax due along with the compounding fee under section 74 before the Intelligence Officer, the assessing authority gave credit for the tax due in the escaped turnover assessment vide order dated 19.01.2015. Since the dealer had remitted balance amount of compounded tax only on 4.06.2014, interest of Rs. 10,240.00 due up to the date of payment of compounded tax from 01.04.2014 to 04.06.2014 was collected from the dealer vide DD No. 1157 dated 20.06.2016 of South Indian Bank(Chalan No.435/27.06.2016).</p> <p>Action U/s 67 of the KVAT Act was initiated for the same offence by Intelligence Office, Squad No.I, Thrissur and the offence was admitted and compounded by the dealer U/s 74 of the Act. Hence there is no scope for imposing penalty again for the same offence.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.45</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/ Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>45. Monarch Cement Works (32021397909)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Chathannur</u></b></p> <p><b><u>2009-10</u></b> Based on the audit objection, the assessment completed on 12.01.2016 demanding tax and interest of Rs.7,72,650/- and penalty Rs.9,09,000/- and was advised for Revenue Recovery. Against this order the assessee filed Writ Petition and Hon'ble High Court of Kerala in WP(C)B5493/16 dated 02.02.2017 had set aside the assessment for the year 2009-10, in respect of tax and interest finding the initiation of proceedings to be beyond the limitation period and left open for the penalty amount. After payment of 20% of penalty as per RP No.343/2017 the dealer opted under amnesty scheme 2019 vide order dated 28.09.2019 and balance penalty get waived of for the year 2009-10.</p> <p><b><u>2010-11</u></b> Based on the audit objection, the assessment has been completed on 12.01.2016 demanding tax &amp; interest of Rs.6,70,236/- and penalty Rs.8,48,400/-. Against this the dealer filed Writ Petition and Hon'ble High Court of Kerala in WP© 35871/16 dated 02.02.2017 had Upheld assessment for the year 2010-11. As per the RP No.344/16 dated 04.01.2017, filed before the Deputy Commissioner, Kollam, the dealer had remitted 20% of penalty and had remitted 30% of tax and interest vide Appellate order No.1141/2016 dated 03.01.2017. Dealer had opted Amnesty 2019 and remitted balance tax of Rs.1,56,105/- getting waived from the penalty &amp; interest for 2010-11.</p> <p><b><u>2011-12</u></b> Based on the audit objection, the assessment completed On 12.01.2016 demanding tax and interest of Rs.5,52,295/- and penalty Rs.7,57,500/- and was advised for Revenue Recovery. Against this the dealer filed Writ Petition and Hon'ble High Court of Kerala in WP© 35871/16 dated 02.02.2017 had upheld assessment for the rest of years</p>

	<p>2010-11 to 2015-16. As per the RP No.345/16 dated 04.01.2017, filed before the Deputy Commissioner, Kollam, the dealer had remitted 20% of penalty and had remitted 30% of tax and interest vide Appellate order No.1142/2016 dated 03.01.2017. Dealer had opted Amnesty 2019 vide order dated 28.09.2019 and remitted balance tax of Rs.1,57,560/- getting waived from the penalty &amp; interest.</p> <p><b><u>2012-13</u></b></p> <p>Based on the audit objection, the assessment for the year 2012-13 has been completed on 12-01-2016 demanding tax and interest of Rs.6,43,200/- and penalty Rs.9,60,000/- and was advised for Revenue Recovery steps. Then the dealer filed Writ Petition and Hon'ble High Court of Kerala in WP© 35871/16 dated 02.02.2017 had upheld assessment for the year 2012-13. As per the RP No.346/16 dated 04.01.2017, filed before the Deputy Commissioner, Kollam, the dealer had remitted 20% of penalty and had remitted 30% of tax and interest vide Appellate order No.1143/2016 dated 03.01.2017. Dealer had opted under Amnesty scheme 2019 and had remitted balance tax of Rs.2,22,720/- vide order dated 28.09.2019 and there by getting waived from the penalty &amp; interest.</p> <p><b><u>2013-14</u></b></p> <p>Based on the audit objection, the assessment completed on 12.01.2016 demanding tax and interest of Rs.5,85,600/- and penalty Rs.9,60,000/- and was advised for Revenue Recovery. Then the dealer filed Writ Petition and Hon'ble High Court of Kerala in WP© 35871/16 dated 02.02.2017 had upheld assessment for the year 2013-14. As per the RP No.347/16 dated 04.01.2017, filed before the Deputy Commissioner, Kollam, the dealer had remitted 20% of penalty and had remitted 30% of tax and interest vide Appellate order No.1144/2016 dated 03.01.2017. Dealer had opted under Amnesty scheme 2019 and remitted balance tax of Rs.2,45,760/- vide order dated 28.09.2019 and there by getting waived from the penalty &amp; interest .</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.46	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>46. Satyam Granite Industries (32021405594)</u></b>  <b><u>2010-11 &amp; 2011-12</u></b>  <b><u>CTO, Anchal</u></b></p> <p>As per Audit enquiry notice U/s.25(1) &amp; 67(1) &amp; (d) were issued to the dealer. The dealer replied that he had not purchased size III Secondary crusher from M/s.Titan Engineering Work, Navi Mumbai of Rs.7,72,834/-. He produced all purchase details with the invoices. The assessing authority verified the purchase details with KVATIS details of C Form downloading, checkpost details etc., and convinced that no 'C' Form has been issued by the dealer to M/s.Titan Engineering Works, Navi Mumbai. Moreover no checkpost transaction has been found in KVATIS related with the consignment. Hence the objection is not sustainable.</p>



Para No.	Gist of the Case	Present Position																																								
2.6.1 Sl.No.47	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSP CB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p align="center"><b><u>47. Ananthapuri Blue Metals (32021434787)</u></b></p> <p align="center"><b><u>2011-12</u></b></p> <p align="center"><b><u>CTO, Anchal</u></b></p> <p>During the year 2011-12 the assessee had opted to pay tax at Compounded rate u/s 8(b) of the KVAT Act 2003 and in the Annual return filed in Form No. 10D for the Year 2011-12, the assessee had returned as under.</p> <table><tr><th>Year</th><th>Category</th><th>No.</th><th>Compounded tax shown as due</th></tr><tr><td rowspan="2">2011-12</td><td>Secondary size II single</td><td>1</td><td>Rs.1,00,000.00</td></tr><tr><td>Secondary size III</td><td>2</td><td>Rs.6,00,000.00</td></tr><tr><td colspan="2">Total</td><td>3</td><td>Rs.7,00,000.00</td></tr></table> <p>Scrutiny revealed that the assessee had applied in Form IB where he had declared that he was possessing two Secondary Crusher of Size III and one primary crusher. Crusher Machine declared to be possessed by the assessee during 2010-11 to 2012-13 are as shown below.</p> <p align="center"><b>2010-11</b></p> <table><tr><th>Categor y</th><th>Size</th><th>No</th><th>Compoun ded tax/machi ne</th><th>Compoun ded tax due</th></tr><tr><td>Secondar y crusher Size III</td><td>&gt;40.64x2 5.40cm</td><td>2</td><td>3,00,000.0 0</td><td>6,00,000.0 0</td></tr><tr><td>Primary Crusher</td><td>Primary</td><td>1</td><td>-</td><td>3,00,000.0 0</td></tr><tr><td colspan="4">TOTAL</td><td>9,00,000.0 0</td></tr></table> <p align="center"><b>2011-12</b></p> <table><tr><th>Categor y</th><th>Size</th><th>No</th><th>Compound ed tax/machin</th><th>Compound ed tax due</th></tr></table>	Year	Category	No.	Compounded tax shown as due	2011-12	Secondary size II single	1	Rs.1,00,000.00	Secondary size III	2	Rs.6,00,000.00	Total		3	Rs.7,00,000.00	Categor y	Size	No	Compoun ded tax/machi ne	Compoun ded tax due	Secondar y crusher Size III	>40.64x2 5.40cm	2	3,00,000.0 0	6,00,000.0 0	Primary Crusher	Primary	1	-	3,00,000.0 0	TOTAL				9,00,000.0 0	Categor y	Size	No	Compound ed tax/machin	Compound ed tax due
Year	Category	No.	Compounded tax shown as due																																							
2011-12	Secondary size II single	1	Rs.1,00,000.00																																							
	Secondary size III	2	Rs.6,00,000.00																																							
Total		3	Rs.7,00,000.00																																							
Categor y	Size	No	Compoun ded tax/machi ne	Compoun ded tax due																																						
Secondar y crusher Size III	>40.64x2 5.40cm	2	3,00,000.0 0	6,00,000.0 0																																						
Primary Crusher	Primary	1	-	3,00,000.0 0																																						
TOTAL				9,00,000.0 0																																						
Categor y	Size	No	Compound ed tax/machin	Compound ed tax due																																						

			<b>e</b>	
Secondary crusher Size III	>40.64x2 5.40cm	2	3,00,000.00	6,00,000.00
Single Crusher	-	1	-	1,00,000.00
<b>TOTAL</b>				7,00,000.00

**2012-13**

<b>Category</b>	<b>Size</b>	<b>No</b>	<b>Compound ed tax/machine</b>	<b>Compound tax due</b>
Secondary crusher Size III	>40.64x2 5.40cm	2	3,20,000.00	6,40,000.00
Primary Crusher	Primary	1	-	3,20,000.00
<b>TOTAL</b>				9,60,000.00

In pursuance to the audit, assessment completed vide order No.32021434787/2011-12 dated 30.05.2014 and demanded the balance tax due Rs.1,40,000/- and its interest. Subsequently another order u/s 67(1) and demand notice also issued to the dealer for Rs.2,80,000/- as penalty order No.32021434787/2011-12 dated 30.05.2014. The whole amount is remitted by the dealer.

Another audit objection is that during the year 2011-12 the dealer possessed secondary crusher in size III two numbers and Secondary Crusher Size II one number and thereby the dealer is liable to pay compounded tax Rs.10,50,000/-. The dealer has already paid Rs.7,00,000/- . Thus there is a short levy of compounded tax Rs.3,53,500/- and interest due Rs.1,37,865/-. They are also proposed a penalty u/s 67(1) Rs.70,7000/-. But in the SIR No.223357 dated 13.07.2010 the Intelligence Officer, Kottarakkara reported that the dealer possessed two Secondary Crusher(36"x8") and one Primary crusher. Same way vide SIR No.209759 dtd. 27.05.2013 the Intelligence Officer PLR reported that the dealer possessed Secondary Crusher (36"x8") two numbers and one number of Primary crusher.

Para No.	Gist of the Case	Present Position																		
2.6.1 Sl.No.48	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>48. Charuvila Metal Crusher (32021476244)</u></b> <b><u>2011-12 to 2013-14</u></b> <b><u>CTO, Anchal</u></b></p> <p>Assessment of the dealer U/s.25(1) has completed as stated below.</p> <table><tr><th rowspan="2">Year</th><th colspan="3">Additional Demand</th><th rowspan="2">Collection Details</th></tr><tr><th>Tax</th><th>Penalty</th><th>Interest</th></tr><tr><td>2011-12</td><td>Rs.20,200/-</td><td>Rs.40,000/-</td><td>Rs.8,484/-</td><td>Total Rs.68,684/- Chalan.368/03.12.16</td></tr><tr><td>2012-13</td><td>Rs.40,000/-</td><td>Rs.80,000/-</td><td>Rs.12,000/-</td><td>Total Rs.1,32,000/- Chalan.369/03.12.16</td></tr></table> <p>And also the defect mentioned in the Audit enquiry i.e., hide primary crusher is actually misclassification of primary crusher as single crusher from part of the dealer to get tax relaxation. Since the assessment related to the case is already completed and remitted the demand.</p> <p><b><u>2013-14</u></b></p> <p>The dealer filed an application for claiming refund of excess compounded tax paid during the year 2014-15 Rs.1,10,000/--(Rupees One lakh ten thousand only) after adjusting short levy of compounded tax Rs.40,000/- due to the misclassification of primary crusher as single crusher for the year 2013-14 and 2014-15.</p> <p>On verification of the records for the year 2013-14 revealed that the dealer had misclassified primary crusher as single crusher and there by suppress compounded tax due by Rs.40,000/- short levy of compounded tax –</p>	Year	Additional Demand			Collection Details	Tax	Penalty	Interest	2011-12	Rs.20,200/-	Rs.40,000/-	Rs.8,484/-	Total Rs.68,684/- Chalan.368/03.12.16	2012-13	Rs.40,000/-	Rs.80,000/-	Rs.12,000/-	Total Rs.1,32,000/- Chalan.369/03.12.16
Year	Additional Demand			Collection Details																
	Tax	Penalty	Interest																	
2011-12	Rs.20,200/-	Rs.40,000/-	Rs.8,484/-	Total Rs.68,684/- Chalan.368/03.12.16																
2012-13	Rs.40,000/-	Rs.80,000/-	Rs.12,000/-	Total Rs.1,32,000/- Chalan.369/03.12.16																

		<p>Rs.40,000/- Additional Interest due @ 12% - Rs.4,800/-          .....          Total due – Rs.44,800/-          As per the request of the dealer, the short levy of compounded tax with interest for the year 2013-14 Rs.44,800/- has been adjusted from the refundable amount for the year 2014-15. From the above it is clear that the defect mentioned in the Audit enquiry ie, hide primary crusher is actually misclassification of primary crusher as single crusher from the part of the dealer to get tax relaxation.</p>
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Para No.	Gist of the Case	Present Position																											
2.6.1 Sl.No.49	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPC B/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p align="center"><b>49. Lal Metal Crusher (32021411185)</b> <b>2011-12 to 2013-14</b> <b><u>CTO, Anchal</u></b></p> <p>As per audit enquiry, assessment U/s.25(1) was completed as detailed below.</p> <table><tr><th rowspan="2">Year</th><th rowspan="2">Order No. &amp; Date</th><th colspan="3">Additional Demand</th></tr><tr><th>Tax</th><th>Penalty</th><th>Interest</th></tr><tr><td>2011-12</td><td>32021411 185/11-12 dated 09.02.2016</td><td>Rs.2,02,000/-</td><td>Rs.4,04,000/-</td><td>Rs.92,920/-</td></tr><tr><td>2012-13</td><td>32021411 185/12-13 dated 10.02.2016</td><td>Rs.2,40,000/-</td><td>Rs.4,80,000/-</td><td>Rs.81,600/-</td></tr><tr><td>2013-14</td><td>32021411 185/13-14 dated 11.02.2016</td><td>Rs.2,40,000/-</td><td>Rs.4,80,000/-</td><td>Rs.52,800/-</td></tr></table> <p>These demands were paid as per amnesty scheme. Chalan numbers are: 2011-12 – Chalan No. 90/06.10.2016 2012-13 – Chalan No. 79/06.10.2016 2013-14 – Chalan No. 86/06.10.2016 At present, no dues outstanding against the dealer.</p>					Year	Order No. & Date	Additional Demand			Tax	Penalty	Interest	2011-12	32021411 185/11-12 dated 09.02.2016	Rs.2,02,000/-	Rs.4,04,000/-	Rs.92,920/-	2012-13	32021411 185/12-13 dated 10.02.2016	Rs.2,40,000/-	Rs.4,80,000/-	Rs.81,600/-	2013-14	32021411 185/13-14 dated 11.02.2016	Rs.2,40,000/-	Rs.4,80,000/-	Rs.52,800/-
Year	Order No. & Date	Additional Demand																											
		Tax	Penalty	Interest																									
2011-12	32021411 185/11-12 dated 09.02.2016	Rs.2,02,000/-	Rs.4,04,000/-	Rs.92,920/-																									
2012-13	32021411 185/12-13 dated 10.02.2016	Rs.2,40,000/-	Rs.4,80,000/-	Rs.81,600/-																									
2013-14	32021411 185/13-14 dated 11.02.2016	Rs.2,40,000/-	Rs.4,80,000/-	Rs.52,800/-																									

Para No.	Gist of the Case	Present Position																													
2.6.1 Sl.No.50	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p style="text-align: center;"><b><u>50. Aramam Industries (32020914881)</u></b> <b><u>2010-11 to 2013-14</u></b> <b><u>CTO, Karunagapally</u></b></p> <p>As per audit enquiry assessment U/s.25(1) was completed for the years as follows.</p> <table><tr><th>Assessm ent Year</th><th>Tax</th><th>Interest</th><th>Pena lty</th><th>Collectio n Particula rs</th></tr><tr><td>2010-11</td><td>Rs.60,000/ - Rs.42,245/ -</td><td>Rs.25,500/-</td><td>0</td><td>290/08.08 .2016</td></tr><tr><td>2011-12</td><td>Rs.60,000/ -</td><td>Rs.18,300/-</td><td>0</td><td>12220908 /27.08.20 18</td></tr><tr><td>2012-13</td><td>Rs.1,20,00 0/-</td><td>0</td><td>0</td><td>KL09436 62/03.01. 2018</td></tr><tr><td>2013-14</td><td>Rs.1,20,00 0/-</td><td>0</td><td>0</td><td>KL01006 7238/03.0 1.2018</td></tr></table> <p>At present, no dues outstanding against the dealer.</p>					Assessm ent Year	Tax	Interest	Pena lty	Collectio n Particula rs	2010-11	Rs.60,000/ - Rs.42,245/ -	Rs.25,500/-	0	290/08.08 .2016	2011-12	Rs.60,000/ -	Rs.18,300/-	0	12220908 /27.08.20 18	2012-13	Rs.1,20,00 0/-	0	0	KL09436 62/03.01. 2018	2013-14	Rs.1,20,00 0/-	0	0	KL01006 7238/03.0 1.2018
Assessm ent Year	Tax	Interest	Pena lty	Collectio n Particula rs																											
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Para No.	Gist of the Case	Present Position																							
2.6.1 Sl.No.51	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>51. Sarathy Metal Crusher (32020924634)</u></b> <b><u>2010-11 to 2012-13</u></b> <b><u>CTO, Karunagapally</u></b></p> <p>In connection with Audit enquiry, assessment in respect of Sarathy Metal Crusher U/s.25(1) and penalty U/s.67 were imposed as detailed below.</p> <table><tr><th rowspan="2">Year</th><th rowspan="2">Order No. &amp; Date</th><th colspan="3">Additional Demand Created</th></tr><tr><th>Tax</th><th>cess</th><th>Interest</th></tr><tr><td>2010-11</td><td>320209 24634/1 0-11 dated 12.02.2016</td><td>Rs.2,10,000/-</td><td>Rs.21,000/-</td><td>Rs.1,18,671/-</td></tr><tr><td>2011-12</td><td>320209 24634/1 1-12 dated 12.02.2016</td><td>Rs.2,10,000/-</td><td>0</td><td>Rs.67,200/-</td></tr><tr><td>2012-13</td><td>320209 24634/1 2-13 dated 12.02.2016</td><td>Rs.2,40,000/-</td><td>0</td><td>Rs.48,000/-</td></tr></table> <p>2010-11 to 2012-13 Penalty imposed – Rs.13,20,000/-</p> <p>The dealer opted amnesty 2018-19 and paid full amount as per chalan Nos. 2586938/31.05.2019 6728787/02.09.2019 5623312/02.08.2019 807463/03.10.2019</p> <p>At present, no dues outstanding against the dealer.</p>	Year	Order No. & Date	Additional Demand Created			Tax	cess	Interest	2010-11	320209 24634/1 0-11 dated 12.02.2016	Rs.2,10,000/-	Rs.21,000/-	Rs.1,18,671/-	2011-12	320209 24634/1 1-12 dated 12.02.2016	Rs.2,10,000/-	0	Rs.67,200/-	2012-13	320209 24634/1 2-13 dated 12.02.2016	Rs.2,40,000/-	0	Rs.48,000/-
Year	Order No. & Date	Additional Demand Created																							
		Tax	cess	Interest																					
2010-11	320209 24634/1 0-11 dated 12.02.2016	Rs.2,10,000/-	Rs.21,000/-	Rs.1,18,671/-																					
2011-12	320209 24634/1 1-12 dated 12.02.2016	Rs.2,10,000/-	0	Rs.67,200/-																					
2012-13	320209 24634/1 2-13 dated 12.02.2016	Rs.2,40,000/-	0	Rs.48,000/-																					

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.52	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>52. New Excel Granites ( 32021044593)</u></b>  <b><u>2013-14</u></b>  <b><u>CTO, Kottarakkara</u></b></p> <p>Sri.Najeem, New Excel Granites, Aduthala is an assessee on the rolls of the office of the State Tax Officer, Kottarakkara bearing TIN 32021044593 engaged in the business in manufacturing of crushed granite with the aid of mechanised crushing machine.</p> <p>During the assessment year 2013-14 the assessee filed compounding application in Form No.IB. Based on that application an enquiry conducted by the State Tax Officer, Kottarakkara and prepared enquiry report. On enquiry, it was noticed that only two secondary crushers of size II and III (&gt;30.48cm x 2.86 and &gt; 40.64 x 25.40cm) and there was no primary crusher units. So the dealer was permitted to pay compounded tax Rs.4,80,000/- for the year ended March 2014 Under Section 8(b) of KVAT Act 2003 as per Order No.32021044593/22.06.2013. Only two electrical motors (40HP &amp; 50HP) are in the unit and no generators.</p> <p>The dealer take registration with effect from 01.05.2010 and had purchased property with the crusher unit of one Mahavir Metal crushing machine of size 16x9 and which was not in working condition. At the time of inspection conducted on 16.06.2010 the machine was dismantled position and the installation of new machinery was in progress.</p> <p>The dealer started commercial production during October 2010. The dealer purchased excavator and rock breaker during November 2010 vide invoice 911002400/31.10.2010 from LT Comatsu Ltd, Bangalore and invoice No.12797/03.11.2010 from Altas Cop Co India Ltd, Pune.</p> <p>The dealer opted for compounding scheme for the crusher unit disclosing the newly erected machine during 2011-12 and 2012-13. The dealer repaired the old machine and started production during 2013-14 and opted for compounding two machines 2013-14 onwards.</p>



		On spot enquiry conducted on 20.06.2013, and 18.11.2014 revealed that no primary crusher unit is installed at the business place. Considering the above fact and circumstances there is no evasion of tax during the year 2013-14.
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.53	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>53. Poovottu Industries (32021026931)</u></b>  <b><u>2013-14</u></b>  <b><u>CTO, Kottarakkara</u></b></p> <p>M/s.Poovottu Industries, Ambalakkara, an assessee on the rolls of the office of the Commercial Tax Officer, Kottarakkara and engaged in the business producing granite metal with the aid of mechanised crushing machine. The assessee has been paying tax at compounded rate U/s.8(b) of KVAT Act 2003 from 2011-12 onwards. The allegation of the audit is that as per the consent of the KPCB, the assessee was operating two secondary crushers of size III and one primary crusher during the assessment year 2013-14 and had only shown one secondary crusher and one primary crusher in Form 10D which had resulted in short levy of tax. The same observation was made by the audit team pertaining to the year 2011-12 &amp; 2012-13 against the assessee. On scrutiny of the available records in respect of the assessee reveals that the assessee opted for payment of tax @ compounded rate U/s.8(b) of the Act on 30.05.2011 disclosing one primary crusher in size III (30x15) and two numbers of secondary crusher in size II (16x9) (&gt;30.48cm x 22.46cm and = 40.64cm x 25.40 cm but quarterly payment of tax was made based on the ratio of one primary crusher and one secondary crusher in size III(30x10) instead of that. Consequently concerned assessing authority visited the premises of the crushing unit on 19.07.2011 and thereby permission was granted to compound one secondary crusher in size III and one primary crusher. According to the assessing authority the old two machineries of 1996 with Sl.No.326 RPM 385 size 16x9 is kept dismantled in the business place and installed a new machinery of bigger size 36x10 model PRO Jaw 2960 in the crushing unit. On spot enquiry of the Commercial Tax Officer, Kottarakkara found that the platform in which the two smaller crushers of size 16x10 were erected remaining the same, the smaller ones are seen removed and in the spaces in which they were installed the new crusher machinery of</p>

		<p>bigger size that is 36x10 is seen installed. As matter of fact, there is no ample space available in the platform to erect any more crusher machine once after erecting the bigger crusher machine. All the electrical insulators connected to one primary machine and one secondary machine only are connected. Thus the factual position submitted by the assessee is found to be true and correct. Considering the above fact and circumstances there is no tax evasion on the part of the assessee during the assessment year 2011-12, 2012-13 and 2013-14.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.54	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>54. Akkavilla Sajeenan Aggregates (32021215784) 2013-14</u></b>  <b><u>CTO, Kundara</u></b></p> <p>M/s. Akkavilla Sajeena Aggregates a registered Metal crusher unit bearing TIN- 32021215784. During the period 2013-14 the dealer had opted to pay tax at compounded rate u/s 8(b) of the KVAT Act-2003.</p> <p>Considering the audit objection of under reporting of one primary crusher unit the assessment during the financial year 2013-2014 completed on 08.02.2017 vide order No. 32021215784/2013-2014 creating an additional demand of Rs.9,00,000/- as compounded tax and Rs.3,15,000/- interest. The dealer opted amnesty Scheme 2019 and settled the dues by remitting entire tax Rs.9,00,000/- and the collection particulars is as follows.</p> <p>Rs.1,09,500/- vide challan no.KL016347361201920M DT 18.03.2020</p> <p>Rs.1,09,500/- vide challan no.KL014722462201920M DT 14.02.2020</p> <p>Rs.1,09,500/- vide challan no.KL013257338201920M DT 16.01.2020</p> <p>Rs.1,09,500/- vide challan no.KL011744352201920M DT 13.12.2019</p> <p>Rs.1,09,500/- vide challan no.KL010096220201920M DT 13.11.2019</p> <p>Rs.1,09,500/- vide challan no.KL008628236201920M DT 16.10.2019</p> <p>Rs.2,43,000/- vide challan no.KL007149624201617M DT 31.03.2017</p>

Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.55</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>55. A S Industries (32021276995)</u></b> <b><u>2009-10, 2012-13 and 2013-14</u></b> <b><u>CTO, Kundara</u></b></p> <p><b><u>2009-10</u></b> M/s. A.S industries, Meeyanoor, Kollam a registered metal crusher unit bearing TIN 32021276995. During the period 2009-10, the dealer had opted to pay tax at compounded rate U/s. 8(b) of the KVAT Act 2003. During the period 2009-10 the dealer returned one secondary crusher of size III and paid Rs.3,03,000/- as compounded tax. A notice under sec 8 (b) of the KVAT Act 2003 was issued to the dealer to pay the balance tax for 2 Secondary crusher Size II for Rs.3,03,000/- and interest u/s 31(5). The assessment was completed vide order No.32021276995/09-10 dated 10.03.2017 demanding compounded tax Rs.3,03,000/- and interest Rs.2,54,520/-. The dealer remitted Rs.1,11,504/- vide chalan No.KL005238616201819 dated 20.08.2018 . Penalty U/s 67 also imposed vide order no.32021276995/09-10 dated 22.03.2017 for Rs.6,06,000/- and the dealer remitted Rs.1,21,200/- vide challan no. KL005238616201819M dated 20.08.2018. Further collection details will be intimated.</p> <p><b><u>2012-13</u></b> During the period 2012-13, the dealer had opted to pay tax at compounded rate U/s.8(b) of the KVAT Act 2003. During the period 2012-13 the dealer returned two secondary crusher of size II and paid Rs.3,20,000/-. A notice under sec 8(b) of the KVAT Act 2003 was issued to the dealer to pay the balance tax for one Secondary crusher Size III and a primary crusher for Rs.6,40,000/- with interest u/s 31(5). The assessment was completed vide order No.32021276995/12-13 dated 27.01.2017 demanding compounded tax Rs.6,40,000/ and interest Rs.2,81,600/-. The dealer remitted Rs.1,84,000/- vide chalan No.KL005760917201617 dated 27.02.2017. Balance amount under stay by Tribunal order No.100/18.</p>

		<p>Penalty U/s 67 also imposed vide order no.32021276995/12-13 dated 22.03.2017 for Rs.12,80,000/- and the dealer remitted Rs.2,56,000/- vide chalan no. KL005238616201819M dated 20.08.2018. Further developments will be intimated.</p> <p><b><u>2013-14</u></b></p> <p>During the period 2013-14, the dealer had opted to pay tax at compounded rate U/s. 8(b) of the KVAT Act 2003. The dealer returned during this period one secondary crusher of size III and paid Rs.3,20,000/-. A notice under sec 8 (b) of the KVAT Act 2003 was issued to the dealer to pay the balance tax for 2 Secondary crusher Size II and a primary crusher Rs.6,40,000/- with interest u/s 31(5). The assessment was completed vide order No.32021276995 /13-14 dated 27.01.2017 demanding compounded tax Rs. 6,40,000/ and interest Rs.2,04,800/-. The dealer remitted Rs.1,68,000/- vide challan No.KL005760917201617 dated 27.02.2017 balance amount under stay by Tribunal order No.100/18.</p> <p>Penalty U/s 67 also imposed vide order no.32021276995/13-14 dated 22.03.2017 for Rs.12,80,000/- and the dealer remitted Rs.2,56,000/- vide chalan no. KL005238616201819M dated 20.08.2018.</p>
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Para No.	Gist of the Case	Present Position					
2.6.1 Sl.No.56	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<b><u>56. Kannan Granite Industries (32021206255)</u></b> <b><u>2010-11</u></b> <b><u>CTO, Kundara</u></b>					
		Sri. Binu, Proprietor, Kannan Granite Industries, Muttakkavu, Nedumpana P.O, Kollam a registered dealer in Metal Crusher Unit bearing TIN 32021206255. During the period 2009-10 the dealer has been issued permission to pay compounded tax u/s 8(b) for the following.					
		<b>Machines</b>	<b>Size</b>	<b>No.of Machine</b>	<b>C.T</b>	<b>Cess</b>	<b>Total</b>
		<b>Secondary Crusher</b>	30 x 10	1	3,00,000/-	3,000/-	3,03,000/-
		<b>do</b>	20 x 12	1	3,00,000/-	3,000/-	3,03,000/-
		<b>Primary</b>	30 x 15	1	3,00,000/-	3,000/-	3,03,000/-
		<b>Total</b>			9,00,000/-	9,000/-	9,09,000/-
		During the year 2010-11 also the dealer used the same machines. But while filing compounding application and return he uploaded secondary crusher size III in 3 nos by mistake and paid compounded tax Rs.8,40,000/-.					
		Compounding tax payable for the period 2010-11 was as under:-					
			<b>Machines</b>	<b>Size</b>	<b>No.of Machine</b>	<b>Total</b>	
		<b>1</b>	<b>Secondary Crusher</b>	40.64 x 25.40	1	2,80,000/-	
		<b>2</b>	<b>do</b>	40.64 x 25.40	1	2,80,000/-	
		<b>3</b>	<b>Primary</b>	do	1	2,80,000/-	

	<b>crusher</b>		
	<b>Total</b>		8,40,000/-

The amount of Rs.8,40,000/- has been paid through the quarterly return 'e' filed. The dealer also reported that while filing quarterly 'e' return during the period 2010-11, the dealer was erroneously filed as secondary crusher size III 3 nos. During the period 2011-12 the dealer filed compounding application in Form 1B dated 03.06.2011 with primary crusher size III 1No. Secondary crusher size III (40.64x25.40) 2 nos.

In this circumstances, there is no tax evasion found in this case during the period 2010-11.



Para No.	Gist of the Case	Present Position																																								
2.6.1 Sl.No.57	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>57. Sha Metal Crusher (32021269108)</u></b> <b><u>2009-10 to 213-14</u></b> <b><u>CTO, Kundara</u></b></p> <p>Sri. M. Rasheed, Sha Metal Crusher, Nanthirikkal, Kundara is a compounded crusher unit bearing TIN No. 32021269108.</p> <p>Considering the audit objection non disclosure of primary crusher of size II assessed from 2009-2010 to 2013- 2014 creating an additional demand of tax interest and Penalty is as follows.</p> <table><tr><th>Year</th><th>Tax</th><th>Interest</th><th>Penalty</th></tr><tr><td>2009-2010</td><td>Rs.4,54,000 /-</td><td>Rs.4,22,220 /-</td><td>Rs.4,54,500 /-</td></tr><tr><td>2010-11</td><td>Rs.1,42,814 /-</td><td>Rs.1,15,679 /-</td><td>Rs.2,82,800 /-</td></tr><tr><td>2011-12</td><td>Rs.1,41,400 /-</td><td>Rs.97,566/-</td><td>Rs.2,82,800 /-</td></tr><tr><td>2012-13</td><td>Rs.1,60,000 /-</td><td>Rs.91,200/-</td><td>Rs.3,20,000 /-</td></tr><tr><td>2013-14</td><td>Rs.1,60,000 /-</td><td>Rs.72,000/-</td><td>Rs.3,20,000 /-</td></tr></table> <p>The dealer opted amnesty Scheme 2019 paid the following dues. The collection particulars in this case is as follows.</p> <table><tr><th>Year</th><th>Tax</th><th>Penalty</th><th>Chalan Details</th></tr><tr><td>2009-10</td><td>Rs.90,800/-</td><td>Rs.90,900/-</td><td>KL0105127 06201920M dated 20.11.19</td></tr><tr><td>2010-11</td><td>Rs.28,563/-</td><td>Rs.56,560/-</td><td>KL0105130 32201920M dated 20.11.19</td></tr><tr><td>2011-12</td><td>Rs.28,280/-</td><td>Rs.56,560/-</td><td>KL0105132 87201920M dated 20.11.19</td></tr></table>	Year	Tax	Interest	Penalty	2009-2010	Rs.4,54,000 /-	Rs.4,22,220 /-	Rs.4,54,500 /-	2010-11	Rs.1,42,814 /-	Rs.1,15,679 /-	Rs.2,82,800 /-	2011-12	Rs.1,41,400 /-	Rs.97,566/-	Rs.2,82,800 /-	2012-13	Rs.1,60,000 /-	Rs.91,200/-	Rs.3,20,000 /-	2013-14	Rs.1,60,000 /-	Rs.72,000/-	Rs.3,20,000 /-	Year	Tax	Penalty	Chalan Details	2009-10	Rs.90,800/-	Rs.90,900/-	KL0105127 06201920M dated 20.11.19	2010-11	Rs.28,563/-	Rs.56,560/-	KL0105130 32201920M dated 20.11.19	2011-12	Rs.28,280/-	Rs.56,560/-	KL0105132 87201920M dated 20.11.19
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		2012-13	Rs.32,000/-	Rs.64,000/-	KL0105135 65201920M dated 20.11.19
		2013-14	Rs.32,000/-	Rs.64,000/-	KL0105138 201920M dated 20.11.19
		For the outstanding arrears the dealer opted Amnesty Scheme 2020 and settled the dues by remitting Rs.3,38,629/-(40 % of arrears of tax Rs.8,46,571/-) vide chalan no.KL006008094202021E DT 10.08.2020.			

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.58	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>58. Chithara Metal Crusher (32021425405)</u></b>  <b><u>2011-12</u></b>  <b><u>CTO, Special Circle, Kollam</u></b></p> <p>The Chithara Metal crusher unit has started production on 03.01.2009 after completing the plant work for the installation of two secondary crushers and one primary crusher.</p> <p>For the expansion of the existing unit, one primary crusher and one cone crusher were purchased from Mesto.T.Nagar, Chennai, as per the invoice No.TN 0000026 dated 08.02.2012. The said purchase was there in the checkpost transaction details of the assessee also. Fabrication work of the installation of the machines continued upto 29.01.2013. There arised so many environmental issues. After solving the environmental issues by obtaining licenses from Chithara Gramma Panchayath, application was given to the KSPCB and Environmental Engineer granted a sanction for operating license with effect from 17.02.2013.</p> <p>During the year 2012-13 the machine is used for one month and that period is mainly for trial running and the machines were included in the compounding option for payment of tax during 2012-13.</p> <p>Since the machines were purchased during February 2012, it can not be put to use at once. It is a fact that installation process may take a period of 6 months or more. Since the purchase had effected during February 2012 the same was included in the Schedule of fixed assets during 2011-12 and depreciation claimed as per section 32 of the IT Act 1961. As per the Section Two requisites for claiming depreciation allowance are (1) that the depreciable asset owned, wholly or partly by the assessee and that</p> <p>(2) it is used for the purpose of business or profession. The assessee on satisfaction of these two conditions claimed depreciation allowance.</p> <p>So it cannot be said that the machinaries were put to use in 2011-12 itself.</p> <p>The assessment for the year 2011-12 was completed vide</p>

	<p>order dated 30.11.2016 creating a demand of Rs.22,50,000.00 as Tax, Rs.12,72,600.00 as interest and Rs.22,500.00 as cess. Penalty of Rs.45,45,500.00 was also imposed vide order dated 30.11.2016. Against these orders, the assessee filed appeal before the Deputy Commissioner(Appeals), Kollam. The Appellate Authority, vide order No.KVATA 289/2017 dated 15.09.2017 set aside the penalty order and directed to modify the assessment order vide appellate order No.KVATA 15/2017 dated 15.09.2017 by verifying invoices and ledger accounts of fabrication works and transportation. Accordingly the assessment was modified and recorded as a case of nil demand. Against these two orders of the Deputy Commissioner(Appeals), Kollam, Second appeals were filed by the department under section 60 of the KVAT Act 2003. Later these two appeals were dismissed by the Appellate Tribunal vide order No.TA(VAT) No.318/17 &amp; 317/17 dated 05.09.2022.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.59</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>59. Darshan Granite Pvt. Ltd.(32449270211)</u></b> <b><u>2011-12 to 2013-14</u></b> <b><u>CTO, Special Circle, Kollam</u></b></p> <p>The assessee is a dealer paying tax under the compounding system on the basis of compounding orders received from the assessing authority. The assessee during the years had installed and commissioned 3 primary crushers and 5 secondary crushers totally 8 machinaries in production and all these machines are compounded and the taxes are paid as per the compounding orders received during these years.</p> <p>The assessee purchased two Cone crushers and one Appolo machinery during 2011-12. Out of these machinaries one Cone crusher is installed but not commissioned. The other one crusher is only partially installed.</p> <p>The installation of Appolo machinery is in progress only. The assessee purchased one VSI Machine in 2009 but so far they have not installed it. The Intelligence Wing of the department inspected the unit on 27.11.2018 and also further an enquiry was conducted by the department officials. Through these inspections it is clearly evident that there is no tax suppression as pointed out in the Audit.</p> <p><b><u>2011-12</u></b></p> <p>M/s. Darshan Granite (P) Ltd. is an assessee on the rolls of this office with TIN: 32449270211 engaged in the business of manufacturing and trading of crushed metals. The assessee filed option for compounding during the year 2011-12 and the same was rejected since it was filed belatedly. Hence the assessee has paid tax during that year as a non-compounded dealer. On the basis of audit objection as per compliance audit conducted during 2011-2012 on metal crusher unit and subsequent draft para, the already completed assessment for the year 2011-12 was re-opened and finalised vide order No.S2</p>

		<p>449270211/2011-12 dated 28.02.2017 under Section 25(A) creating a demand of Rs.27,49,821.00 as tax and Rs.27,498.00 as cess and a penalty of Rs.48,10,036.00 was also imposed vide order dated 28.02.2017. Against the above mentioned assessment and penalty orders, the assessee filed writ petition numbered WP(C) 11389/2017 before the Honourable High Court and the Court granted stay.</p> <p>(Not compounded for the year 2011-12)</p> <p><b><u>2012-13</u></b></p> <p>The assessee had opted to pay tax at compounded rate during 2012-13 and 2013-14. The assessee had conceded only five secondary crushers and three primary crushers in the compounding applications during these years. Accordingly tax was paid for the above mentioned machines only. However, in addition to the said machines, the assessee purchased two cone crushers as per invoices S000128 dated 30.08. 2011 and S00475 dated 23.03.2012 and one primary crusher vide bill No.M/337/18.02.2012. The consent to establish the above said cone crushers and primary crusher was obtained from the Kerala State Pollution Control Board on 25.07.2012 vide consent No.PCB/RO/PTA/ICE/06/2012. So the under reporting of two cone crushers and one primary crusher has resulted in short payment of tax under the compounded scheme. This defect was pointed out by the audit team and was included in LAR SRA (HQ)II/CT-GL/16-70/14-15/351 dated 26.11.2014 and in this regard a revised audit enquiry No.182 (modified and updated dated 11.03.2016) was also given. This case was later included in draft note vide RSA(HQ)II/CT/16-17/355 dated 19.05.2016. Hence the assessment for the years 2012-13 &amp; 2013-14 was completed under Section 25A and penalty was imposed under Section 67 of the KVAT Act 2003 for these years. Assessment for the year 2012-13 was completed vide order No.32449270211/12-13 dated 31.10.2016 creating additional demand of Rs.54,00,000.00 as tax and Rs.23,22,000.00 as</p>
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		<p>interest and also imposed a penalty of Rs.1,08,00,000.00 for the year 2012-13 as per order No.32449270211/12-13 dated 31.10.2016.</p> <p><b><u>2013-14</u></b></p> <p>Assessment for the year 2013-14 was completed vide order No.32449270211/13-14 dated 31.10.2016 creating additional demand of Rs.54,00,000.00 as tax and Rs.16,74,000.00 as interest and also imposed a penalty of Rs.1,08,00,000.00 vide order dated 31.10.2016. Against these orders, the assessee filed writ petition numbered WP(C) 1908/2017 dated 18.01.2017 before the Honorable High Court and the Court granted stay. I submit the above report for consideration and further necessary action.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.60	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>60. Kohinoor Granite Industries (32090562156)</u></b>  <b><u>2009-10, 2010-11, 2012-13 &amp; 2013-14</u></b>  <b><u>CTO, I Circle, Palakkad</u></b></p> <p>The audit team has pointed that the dealer misrepresented the jaw size of crusher which resulted in short levy of tax and interest. The VAT registration of TIN 32090562156 was wef. 08.07.2011. Erstwhile registration was PIN registration bearing PIN 32553320905. The State Tax Officer, First Circle, Palakkad has reported that the assessment was completed for the year 2009-10 creating an additional demand of Rs. 5,75,700/- ( Tax: Rs. 3,03,000/-, Interest Rs. 2,72,700/-) vide Order No. 32553320905/2009-10 dt. 22.09.2017 and 2010-11 based on the audit objection, and Rs. 4,85,406/- ( Tax: Rs. 2,72,700/-, Interest Rs., 2,12,706/-) vide Order No. 32553320905/2010-11 dt 20.09.2017. The demand was advised for Revenue Recovery to realize the arrears. The dealer preferred an appeal against this order before the Hon'ble High Court of Kerala. The Hon'ble High Court has granted Interim stay as per WA number 1133 of 2019 dated 02.05.2019.</p> <p>No objection pointed out for the year 2011-12.</p> <p>The assessment for the year 2012-13 and 2013-14 has been completed on 31.10.2016 creating an additional demand of Rs.3,38,400/- and Rs. 6,19,200/- respectively (2012-13 tax of Rs. 2,40,000/- interest of Rs. 98,400/-, 2013-14 tax, of Rs. 4,80,000/- interest of Rs. 1,39,200/-). The dealer opted Amnesty Scheme and remitted the entire dues as per the chalan No.KL0027595652019M dated 04.06.2019.</p>



Para No.	Gist of the Case	Present Position																												
2.6.1 Sl.No.61	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>61. Korien Granite Industries (32090596075)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, I Circle, Palakkad</u></b></p> <p>On the basis of the audit findings, the assessment in respect of M/s. Korien Granite Industries for the year 2009-10 to 2013-14 was completed as per Order no. 32090596075 dated 31.10.2016 creating demand as under:</p> <table><tr><th>Year</th><th>Tax</th><th>Interest</th><th>Total</th></tr><tr><td>2009-10</td><td>3,03,000/-</td><td>2,33,310/-</td><td>5,36,310/-</td></tr><tr><td>2010-11</td><td>2,82,800/-</td><td>1,83,820/-</td><td>4,66,620/-</td></tr><tr><td>2011-12</td><td>2,57,550/-</td><td>1,36,502/-</td><td>3,94,052/-</td></tr><tr><td>2012-13</td><td>2,90,000/-</td><td>1,18,900/-</td><td>4,08,900/-</td></tr><tr><td>2013-14</td><td>2,90,000/-</td><td>84,100/-</td><td>3,74,100/-</td></tr><tr><td>TOTAL</td><td>14,23,350/-</td><td>75,663/-</td><td>21,79,980/-</td></tr></table> <p>Aggrieved by this order the dealer preferred appeal before the first appellate authority and the appellate authority has dismissed the appeals upholding the orders of the assessing authority. Against this order the dealer filed second appeal before the KVATAT, Additional Bench Kozhikode. The Honourable Tribunal in TA(VAT) Nos.895/2018, 896/2018, 897/2018, 898/2018 &amp; 899/2018 dated 08-06-2020 in respect of the assessee, M/s Korian Granite Industries, Mannur, Palakkad, the assessment for the years 2009-10 &amp; 2010-11 are set aside on the ground of time limit since the pre assessment notices were found issued after a lapse of 5 years. The assessments for the years 2011-12, 2012-13 &amp; 2013-14 are set aside for the purpose of remand. As per the direction of the Hon'ble tribunal the dealer shall produce the original invoice of the secondary crushing machine before the assessing authority to establish the claim of the dealer that the secondary machine used by the crushing unit is of size(I) as conceded in the compounding application and also to make necessary enquiry regarding the jaw size of the machine used in the crushing unit with respect to the documents produce by the dealer. If the dealer fails to produce the documents the assessment can</p>	Year	Tax	Interest	Total	2009-10	3,03,000/-	2,33,310/-	5,36,310/-	2010-11	2,82,800/-	1,83,820/-	4,66,620/-	2011-12	2,57,550/-	1,36,502/-	3,94,052/-	2012-13	2,90,000/-	1,18,900/-	4,08,900/-	2013-14	2,90,000/-	84,100/-	3,74,100/-	TOTAL	14,23,350/-	75,663/-	21,79,980/-
Year	Tax	Interest	Total																											
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2012-13	2,90,000/-	1,18,900/-	4,08,900/-																											
2013-14	2,90,000/-	84,100/-	3,74,100/-																											
TOTAL	14,23,350/-	75,663/-	21,79,980/-																											

		<p>be completed based on the findings of the intelligence wing. Scope for filing TRC against the appellate orders for the years 2009-10 &amp; 2010-11 in TA(VAT) Nos.895/2018 &amp; 896/2018 dated 08-06-2020 of KVATAT, has been sent to The Joint Commissioner of State Tax (Law), Ernakulam from the assessing office on 12-10-2020.</p> <p>The dealer opted Amnesty Scheme 2020 and remitted the entire dues as per chalan no.KL017737671202021E dated 29-01-2021.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.62</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/ Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>62. Mubarak Metal Crusher Unit (32543190910)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Ottapalam</u></b></p> <p>The Audit team has found variations between returns filed by the dealers and the secondary evidences collected from the Kerala State Pollution Control Board and that the dealers short reported the number of machines installed for producing granite metal which has resulted in short levy of tax and interest amounting to Rs.10,44,205/- for the years 2009-10 to 2013-14. The audit team has also mentioned that penalty U/s. 67(1) of Rs. 15,08,600/- is also due for these periods.</p> <p>The Accountant General has pointed out that there is variation in the number of machines installed for producing granite metal and the permission granted. The dealer produced copies of purchase invoices relating to the crusher installed. The dealer submitted the consent to operate from the Pollution Control board for the compounding periods, consent No.PCB PLKD/IC/CO/F/50/2007 dated 21-06-07, PCB PLKD/IC/CO/97/2007 Dated 21-06-2009 valid upto 30-06-2012, PCB PLKD/IC/CO/97/2007 Dated 02-07-2015 valid upto 30-06-2018. Verification of all these consent, to operate, issued by Pollution Control Board, it is seen that secondary crusher 30 HP and primary crusher 50 HP were operated at the business premise of the dealer throughout the period. This tallies with the compounding order issued by the Department during the said period. A variation noticed is that the dealer has opted for compounding both the crushers as secondary instead of the consent given for one primary and for one secondary. On detailed verification, it is seen that if the dealer had opted for compounding as per the consent to operate and to the machine installed it would have been lead to the decrease in compounding fee applicable. Hence the compounding order issued by the Commercial Tax Officer seems to be regular and with a view to upheld the revenue by taking both the machineries are secondary. On verification of the entire records and material evidences as stated above, no</p>

		<p>variation is seen in the machinery used and permission granted. The Kerala state pollution Control Board consent order shows one as secondary II and the other one as primary. From the above findings and documentary evidences, no revenue loss or short levy of tax is seen in the machinery used and compounding fee fixed. Hence the objection may be dropped.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.63	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>63. Valluvanad Granites (32204280910)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, Ottapalam</u></b></p> <p><b>2009-10:</b> Under reporting of size of Secondary crushers used leading to short payment of Compounded tax and cess for 2009-10. <b>2010-11, 2011-12, 2012-13 and 2013-14:</b> Under reporting of Cone crushers used in the Application for payment of Compounded Tax.</p> <p><b><u>2009-10</u></b>  The assessment under Section 25(1) of the KVAT ACT, 2003 was completed as per order No.32204280910/2009-10 dated 26.04.2017 creating additional demand of Tax:Rs.8,43,749/-, Interest:Rs.7,19,245/-, Cess:Rs.8,437/-). The assessee remitted Rs.1,70,500/- under Revenue Recovery at IAC, Palakkad. The appeal filed before the Assistant Commissioner(Appeals), Palakkad was dismissed as per order No.293/2018 dated 30.11.2018. RRC returned from IAC, Palakkad. Hence new RRC issued to Revenue Authorities. The dealer opted Amnesty 2022 but not paid the dues.</p> <p><b><u>2010-11</u></b>  The assessment under Section 25(1) of the KVAT ACT, 2003 was completed as per order No.32204280910/2010-11 dated 26.04.2017 creating additional demand of Rs. 36,78,723/-(Tax:Rs.21,30,000/-, Interest:Rs.15,27,423/-, Cess:Rs.21,300/-). The assessee remitted Rs.4,30,000/- under Revenue Recovery at IAC, Palakkad. The appeal filed before the Assistant Commissioner(Appeals), Palakkad was dismissed as per order No.294/2018 dated 30.11.2018. RRC returned from IAC, Palakkad. Hence new RRC issued to Revenue Authorities. The dealer opted Amnesty 2022 but not paid the dues.</p> <p><b><u>2011-12</u></b>  The assessment under Section 25(1) of the KVAT ACT, 2003 was completed as per order No.32204280910/2011-12 dated 26.04.2017 creating additional demand of Rs.</p>

		<p>34,20,567/-(Tax:Rs.21,30,000/-, Interest:Rs.12,69,267/-, Cess:Rs.21,300/-). The assessee remitted Rs.4,30,000/- under Revenue Recovery at IAC, Palakkad. The appeal filed before the Assistant Commissioner(Appeals), Palakkad was dismissed as per order No.295/2018 dated 30.11.2018. RRC returned from IAC, Palakkad. Hence new RRC issued to Revenue Authorities. Amnesty 2022 opted but not paid.</p> <p><b><u>2012-13</u></b></p> <p>The assessment under Section 25(1) of the KVAT ACT, 2003 was completed as per order No. 32204280910/2012-13 dated 26.04.2017 creating additional demand of Rs. 32,96,475/-(Tax:Rs.22,42,500/-, Interest:Rs.10,53,975/-). The assessee remitted Rs.4,48,500/- under Revenue Recovery at IAC, Palakkad. The appeal filed before the Assistant Commissioner(Appeals), Palakkad was dismissed as per order No.296/2018 dated 30.11.2018. RRC returned from IAC, Palakkad. Hence new RRC issued to Revenue Authorities. The dealer opted Amnesty 2022 but not paid the dues.</p> <p><b><u>2013-14</u></b></p> <p>The assessment under Section 25(1) of the KVAT ACT, 2003 was completed as per order No.32204280910/2013-14 dated 26.04.2017 creating additional demand of Rs. 33,21,000/-(Tax:Rs.24,60,000/-, Interest:Rs.8,61,000/-). The assessee remitted Rs.4,92,000/- under Revenue Recovery at IAC, Palakkad. The appeal filed before the Assistant Commissioner(Appeals),Palakkad was dismissed as per order No.297/2018 dated 30.11.2018. RRC returned from IAC, Palakkad. Hence new RRC issued to Revenue Authorities. The dealer opted Amnesty 2022 but not paid the dues.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.64</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>64. Amal Granites (32283210910)</u></b> <b><u>2009-10 to 2012-13</u></b> <b><u>CTO, Ottapalam</u></b></p> <p><b><u>2009-10</u></b> Based on the audit objection, assessment under Section 25(1) and 25 A of the KVAT Act 2003 was completed as per order No.32283210910/2009-10 dated 01.07.2016 creating additional demand of Rs.4,83,285/-(Tax and Cess: Rs.2,77,750/-, Interest:2,05,535/-). An amount of Rs. 5,55,500/- was also imposed as penalty under Section 67(1) of the KVAT Act, 2003 as per order No.32283210910/2009-10 dated 01.07.2016. The assessee filed writ petition before the Honourable High Court of Kerala as per WP(C) No.29206/16. As per WPC 29206 of 2016 dt 04.07.24 has disposed as assessment order has set aside. Books of accounts called for the year 2009-10.</p> <p><b><u>2010-11</u></b> Based on the audit objection, assessment under Section 25(1) and 25 A of the KVAT Act 2003 was completed as per order No.32283210910/2010-11 dated 01.07.2016 creating additional demand of Rs.4,17,231/-(Tax and Cess:Rs.2,57,550/-, Interest:Rs.1,59,681/-). An amount of Rs.5,15,100/- was also imposed as penalty under Section 67(1) of the KVAT Act, 2003 as per order No. 32283210910/2010-11 dated 01.07.2016. The assessee filed writ petition before the Honourable High Court of Kerala as per WP(C) No.29206/16. As per WPC 29206 of 2016 dt 04.07.24 has disposed as assessment order has set aside. Books of accounts called for the year 2010-11.</p> <p><b><u>2011-12</u></b> Based on the audit objection, assessment under Section 25(1) and 25 A of the KVAT Act 2003 was completed as per order No.32283210910/2011-12 dated 01.07.2016 creating additional demand of Rs.3,86,325/- (Tax and</p>

		<p>Cess:Rs.2,57,550/-, Interest:Rs.1,28,775/-). An amount of Rs.5,15,100/- was also imposed as penalty under Section 67(1) of the KVAT Act, 2003 as per order No. 32283210910/2011-12 dated 01.07.2016. The assessee filed writ petition before the Honourable High Court of Kerala as per WP(C) No.29206/16. As per WPC 29206 of 2016 dt 04.07.24 has disposed as assessment order has set aside. Books of accounts called for the year 2011-12.</p> <p><b><u>2012-13</u></b></p> <p>Based on the audit objection, assessment under Section 25(1) and 25 A of the KVAT Act 2003 was completed as per order No.32283210910/2012-13 dated 01.07.2016 creating additional demand of Rs.5,10,600/-(Tax and Cess:Rs.3,70,000/-, Interest:Rs.1,40,600/-). An amount of Rs.7,40,000/- was also imposed as penalty under Section 67(1) of the KVAT Act, 2003 as per order No.32283210910/2012-13 dated 01.07.2016. The assessee filed writ petition before the Honourable High Court of Kerala as per WP(C) No.29206/16. As per WPC 29206 of 2016 dt 04.07.24 has disposed as assessment order has set aside. Books of accounts called for the year 2012-13.</p>
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Para No.	Gist of the Case	Present Position																																		
2.6.1 Sl.No.65	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>65. Mabrook Granites (32273300911)</u></b> <b><u>2009-10 &amp; 2010-11</u></b> <b><u>CTO, Pattambi</u></b></p> <p>The assessment of the dealer for the years 2009-10 to 2010-11 has been completed as follows:</p> <table><tr><th>Sl.No.</th><th>Year</th><th>Order No./Date</th><th>Tax</th><th>Interest</th><th>Total</th></tr><tr><td>1</td><td>2009-10</td><td>32273300911/09-10 dated 14.11.2016</td><td>2,77,750/-</td><td>2,08,312/-</td><td>4,86,062/-</td></tr><tr><td>2</td><td>2010-11</td><td>32273300911/10-11 dated 14.11.2016</td><td>1,81,800/-</td><td>1,14,534/-</td><td>2,96,334/-</td></tr></table> <p>The assessment of penalty for the years 2009-10 &amp; 2010-11 was also completed as per order No.32273300911/09-10 and 2010-11 dated 14.12.2016 imposing penalty of Rs.5,55,500/- and Rs.3,63,600/- respectively.</p> <p>The assessee opted for amnesty for 2017-18 and paid entire amount of tax and 30% of the penalty as shown below.</p> <table><tr><th>Year</th><th>Tax Due under Amnesty</th><th>Penalty due under amnesty</th><th>Total due</th></tr><tr><td>2009-10</td><td>2,77,750/-</td><td>1,66,500/-</td><td>4,44,250/-</td></tr><tr><td>2010-11</td><td>1,81,800/-</td><td>1,09,080/-</td><td>2,90,880/-</td></tr><tr><td></td><td></td><td></td><td><b>7,35,130/-</b></td></tr></table> <p>Payment details: Rs.1,22,547/- Chalan No.KL004227809201718M dated 20.07.2017</p>	Sl.No.	Year	Order No./Date	Tax	Interest	Total	1	2009-10	32273300911/09-10 dated 14.11.2016	2,77,750/-	2,08,312/-	4,86,062/-	2	2010-11	32273300911/10-11 dated 14.11.2016	1,81,800/-	1,14,534/-	2,96,334/-	Year	Tax Due under Amnesty	Penalty due under amnesty	Total due	2009-10	2,77,750/-	1,66,500/-	4,44,250/-	2010-11	1,81,800/-	1,09,080/-	2,90,880/-				<b>7,35,130/-</b>
Sl.No.	Year	Order No./Date	Tax	Interest	Total																															
1	2009-10	32273300911/09-10 dated 14.11.2016	2,77,750/-	2,08,312/-	4,86,062/-																															
2	2010-11	32273300911/10-11 dated 14.11.2016	1,81,800/-	1,14,534/-	2,96,334/-																															
Year	Tax Due under Amnesty	Penalty due under amnesty	Total due																																	
2009-10	2,77,750/-	1,66,500/-	4,44,250/-																																	
2010-11	1,81,800/-	1,09,080/-	2,90,880/-																																	
			<b>7,35,130/-</b>																																	

		Rs.1,22,547/- Chalan No.KL005286320201718M dated 21.8.2017
		Rs.1,22,547/- Chalan No.KL006129482201718M dated 22.09.2017
		Rs.1,22,547/- Chalan No.KL007142093201718M dated 24.10.2017
		Rs.1,22,547/- Chalan No.KL008089343201718M dated 22.11.2017
		Rs.1,22,547/- Chalan No.KL009102391201718M dated 22.12.2017
		<b><u>Total: Rs.7,35,282/-</u></b>

Para No.	Gist of the Case	Present Position				
2.6.1 Sl.No.66	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<b><u>66. Malabar Blue Metals (32091142094)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Pattambi</u></b>				
		The assessment in respect of Malabar Blue Metals for the year 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 were completed on 02.03.2017 creating demand as follows.				
		<b>Year</b>	<b>Tax</b>	<b>Interest</b>	<b>Penalty</b>	
		2009-10	Rs.3,93,900 /-	Rs.3,11,181 /-	Rs.7,87,800 /-	
		2010-11	Rs.3,67,236 /-	Rs.2,46,048 /-	Rs.7,27,200 /-	
		2011-12	Rs. 3,67,236/-	Rs.2,01,980 /-	Rs.7,27,200 /-	
		2012-13	Rs.4,20,000 /-	Rs.1,80,600 /-	Rs.8,40,000 /-	
		2013-14	Rs.4,20,000 /-	Rs.1,30,200 /-	Rs.8,40,000 /-	
		The dealer opted amnesty scheme 2020 on 02.06.2020 and paid the tax due. The demand related to penalty is waived under this scheme. Payment details is as follows:				
		<b>Year</b>	<b>Tax due before amnest y scheme</b>	<b>Tax paid before amnest y scheme</b>	<b>BALA NCE TAX</b>	<b>Tax paid under amnest y scheme</b>
		2009-10	393900	84994	308906	123562.4 KL006 268514 201617

						M/18/0 3/2017 , KL0106 043932 01920M / 07/04/2 018 and KL0147 856482 02021E. Dtd.22/ 12/2020	
		2010-11	367236	73450	293786	293786	KL006 375099 201617 M/18.03 .2017 and KL0106 041012 01920M /21/11/2 019.
		2011-12	367236	73450	293786	117514. 4	KL006 270544 201617 M/18/0 3/2017 and KL0147 856482 02021E. Dtd.22/ 12/2020
		2012-13	420000	84000	336000	134400	KL006 270891 201617

						M/18-03-2017 and KL0147 856482 02021E. Dtd.22/ 12/2020 .7	
		2013-14	420000	84000	336000	134400	KL006 274084 201617 M/18-03-2017 and KL0147 856482 02021E. Dtd.22/ 12/2020 .

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.67	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>67. Well Worth Granites (32151351598)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  Short Levy reported as per C&amp; AG Report is Rs.7,03,970/- consisting of Tax: Rs.4,29,500/- and interest: Rs.2,74,720/-. Based on this, assessment was completed by the assessing authority on 19.03.2016 under Section 25A creating additional demand of Rs.7,34,445/- consisting of Tax: Rs.4,29,500/- and interest: Rs.3,04,945/- and RRC issued vide RRC No.141/D/2016-17 dated 31.01.2017. The assessee remitted Rs.43,000/- vide Chalan No. KL004694438201617M Dated 23.01.2017. Aggrieved by the above order, the assessee filed appeal and remitted Rs.43,000/- vide chalan No.KL006967879201617M Dated 31.03.2017 to get Automatic Stay on the recovery of balance amount. Later the first Appellate Authority disposed the case in favour of Revenue and the assessee filed WP(c) No.11853/18 on 26.03.2018 ( against order of First Appellate Authority and the order of the assessing authority dated 19.03.2016) which is pending for disposal. In this regard statement of Facts was submitted by the assessing authority on 11.04.2018.</p> <p><b><u>2010-11</u></b>  Short Levy reported as per C&amp; AG Report is Rs. 4,91,264/- consisting of Tax:Rs.3,23,200/- and interest: Rs.1,68,024/-. Based on this, assessment was completed by the assessing authority on 19.03.2016 under Section 25A creating additional demand of Rs.5,13,888/- consisting of Tax:Rs.3,23,200/- and interest: Rs.1,90,688/-. The assessee remitted Rs.33,000/- vide Chalan No. KL004694369201617M Dated 23.01.2017. Aggrieved by the above order, the assessee filed appeal and remitted Rs.31,640/- vide Chalan No.KL005167415201617M Dated 10.02.2017 to get</p>

		<p>Automatic Stay on the recovery of balance amount. Later the First Appellate Authority disposed the case in favour of Revenue. Subsequently the assessee filed second appeal and the Hon'ble Tribunal, vide Order No.T.A (VAT) Nos.412/2018,413/2018,414/2018 and 415/2018 dated 07.09.2018 (composite order for four years) stayed the operations of the impugned order. The assessee remitted Rs.32,320/- vide chalan No.KL008237544201819M dated 19.11.2018 to fulfil the stay condition. Tribunal Order TA(VAT) Nos.412/2018, 413/2018, 414/2018 dtd.06.05.2022 received, setting aside the assessment orders for the above years. Proposal for OT Revision filed on. 26.08.2022.</p> <p><b><u>2011-12</u></b></p> <p>Short Levy reported as per C&amp; AG Report is Rs.4,45,480/- consisting of Tax: Rs.3,23,200/- and interest: Rs.1,29,280/-. Based on this, assessment was completed by the assessing authority on 15.03.2016 under Section 25A creating additional demand of Rs.4,75,104/- consisting of Tax:Rs.3,23,200/- and interest: Rs.1,51,904/-. The assessee remitted Rs.33,000/- vide Chalan No. KL004694306201617M dated 23.01.2017.</p> <p>Aggrieved by the above order, the assessee filed appeal and remitted Rs.31,640/- vide Chalan No. KL005169580201617M Dated 10.02.2017 to get Automatic Stay on the recovery of balance amount. Later the First Appellate Authority disposed the case in favour of Revenue. Subsequently the assessee filed second appeal and the Hon'ble Tribunal, vide Order No.T.A (VAT) Nos.412/2018,413/2018,414/2018 and 415/2018 dated 07.09.2018(composite order for three years) stayed the operations of the impugned order. The assessee remitted Rs.32,320/- vide chalan No. KL008237676201819M dated 19.11.2018 to fulfill the stay condition. Tribunal Order TA(VAT) Nos.412/2018, 413/2018, 414/2018 dtd.06.05.2022 received, setting aside the assessment orders for the above years. Proposal for OT Revision filed on. 26.08.2022.</p>
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**2012-13**

Short Levy reported as per C& AG Report is Rs. 4,460,800 consisting of Tax:Rs.3,60,000/- and interest: Rs.1,00,800/-. Based on this, assessment was completed by the assessing authority on 15.03.2016 under Section 25A creating additional demand of Rs.4,86,000/- consisting of Tax: Rs.3,60,000/- and interest Rs.1,26,000/-. The assessee remitted Rs.33,000/- vide Chalan No. KL004694306201617M dated 23.01.2017.

Aggrieved by the above order the assessee filed appeal and remitted Rs.36,000/- vide Chalan No. KL005170539201617M Dated 10.02.2017 to get Automatic Stay on the recovery of balance amount. Later the First Appellate Authority disposed the case in favour of Revenue. Subsequently the assessee filed second appeal and the Hon'ble Tribunal, vide Order No.T.A (VAT) Nos.412/2018,413/2018,414/2018 and 415/2018 dated 07.09.2018(composite order for three years) stayed the operations of the impugned order. The assessee remitted Rs.36,000/- vide chalan No.KL008238370201819M dated 19.11.2018 to fulfill the stay condition. Tribunal Order TA(VAT) Nos.412/2018, 413/2018, 414/2018 dtd.06.05.2022 received, setting aside the assessment orders for the above years. Proposal for OT Revision filed on. 26.08.2022.

**2013-14**

Short Levy reported as per C& AG Report is Rs.4,17,600/- consisting of Tax:Rs.3,60,000/- and interest: Rs.57,600/-. Based on this, assessment was completed by the assessing authority on 15.03.2016 under Section 25A creating additional demand of Rs.3,69,000/- consisting of Tax Rs.3,00,000/- and interest Rs.69,000/-. The following amounts were remitted by the assessee after issue of the above proceedings

Chalan No. and Date	Amount	Head
1796/24.05.2016	20,000/-	Tax
2276/24.06.201	20,000/-	Tax



		6		
		1402/18.08.201	20,000/-	Tax
		6		
		1966/23.08.201	15,000/-	Interest
		6		
		1732/27.09.201	15,000/-	Interest
		6		
		<p>Aggrieved by the above order the assessee filed appeal and remitted Rs.20,000 vide Chalan No. KL005170656201617M Dated 10.02.2017 to get Automatic Stay on the recovery of balance amount. Later First Appellate Authority decided the case in favour of Revenue. Again the assessee filed second appeal and the Hon'ble Tribunal, vide Order No.T.A (VAT) Nos.412/2018,413/2018,414/2018 and 415/2018 dated 07.09.2018(composite order for three years) stayed the operations of the impugned order. The assessee remitted Rs.36,000/- vide chalan No.KL 008238485201819M dated 19.11.2018 to fulfill the stay condition. Assessment for the financial Year 2013-14 was upheld by the Hon'ble Tribunal as legally and factually sustainable vide order No. TA(VAT) No.415/2018 dtd.06.05.2022. Steps were initiated for collection of arrears.</p>		

Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.68</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>68. Abson Aggregates (32150790685)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Aluva</u></b></p> <p><b><u>2009-10</u></b> As per the audit objection the assessing authority completed the assessment under section 25(1) &amp; 67(1) of the KVAT Act 2003 on 28.03.2017, creating additional demand of Rs.15,01,500/- including tax, interest and penalty. As per KVATA No.1713/17, 1715/17, 1717/17, 1719/17 and 1721/17 dated 24/01/2019 of the Deputy Commissioner Appeal I, SGST Dept., Ernakulam set aside the penalty under Sec 67. As per KVATA NO 1712,1714,1716,1718 and 1720/17 dtd 24/01/2019 of the Deputy Commissioner Appeals I, SGST Dept, Ernakulam allowed the appeals filed by the dealer, against the order u/s 25(1) and 25(A) of KVATA Act 2003. No demand outstanding against the assessee.</p> <p><b><u>2010-11</u></b> As per the audit objection the assessing authority completed the assessment under section 25(1) &amp; 67(1) of the KVAT Act 2003 on 28.03.2017, creating additional demand of Rs.7,46,952/- including tax, interest and penalty. As per KVATA No.1713/17, 1715/17, 1717/17, 1719/17 and 1721/17 dated 24/01/2019 of the Deputy Commissioner Appeal I, SGST Dept., Ernakulam set aside the penalty under Sec 67. As per KVATA NO 1712,1714,1716,1718 and 1720/17 dated 24/01/2019 of the Deputy Commissioner Appeals I, SGST Dept., Ernakulam allowed the appeals filed by the dealer, against the order u/s 25(1) and 25(A) of KVATA Act 2003. No demand outstanding against the assessee .</p> <p><b><u>2011-12</u></b> As per the audit objection the assessing authority completed the assessment under section 25(1) &amp; 67(1) of the KVAT Act 2003 on 28.03.2017, creating additional demand of Rs.7,58,100/- including tax, interest and</p>

		<p>penalty. As per KVATA No.1713/17, 1715/17, 1717/17, 1719/17 and 1721/17 dated 24/01/2019 of the Deputy Commissioner Appeal I, SGST Dept., Ernakulam set aside the penalty under Sec 67. As per KVATA NO 1712,1714,1716,1718 and 1720/17 dated 24/01/2019 of the Deputy Commissioner Appeals I, SGST Dept., Ernakulam allowed the appeals filed by the dealer, against the order u/s 25(1) and 25(A) of KVATA Act 2003. No demand outstanding against the assessee .</p> <p><b><u>2012-13</u></b></p> <p>As per the audit objection the assessing authority completed the assessment under section 25(1) &amp; 67(1) of the KVAT Act 2003 on 28.03.2017, creating additional demand of Rs.8,41,800/- including tax, interest and penalty. As per KVATA No.1713/17, 1715/17, 1717/17, 1719/17 and 1721/17 dtd 24/01/2019 of the Deputy Commissioner Appeal I, SGST Dept., Ernakulam set aside the penalty under Sec 67. As per KVATA NO 1712,1714,1716,1718 and 1720/17 dated 24/01/2019 of the Deputy Commissioner Appeals I, SGST Dept., Ernakulam allowed the appeals filed by the dealer, against the order u/s 25(1) and 25(A) of KVATA Act 2003. No demand outstanding against the assessee .</p> <p><b><u>2013-14</u></b></p> <p>As per the audit objection the assessing authority completed the assessment under section 25(1) &amp; 67(1) of the KVAT Act 2003 on 28.03.2017, creating additional demand of Rs.8,04,000/- including tax, interest and penalty. As per KVATA No.1713/17, 1715/17, 1717/17, 1719/17 and 1721/17 dated 24/01/2019 of the Deputy Commissioner Appeal I, SGST Dept., Ernakulam set aside the penalty under Sec 67. As per KVATA NO. 1712,1714,1716,1718 and 1720/17 dated 24/01/2019 of the Deputy Commissioner Appeals I, SGST Dept., Ernakulam allowed the appeals filed by the dealer, against the order u/s 25(1) and 25(A) of KVATA Act 2003. No demand outstanding against the assessee .</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.69</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>69. Matha Industries (32150835606)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Angamali</u></b></p> <p>In similar cases the appeals are “Allowed” by the first Appellate Authority stating that the material relied on by the Audit party is a consent to operate issued by the Kerala State Pollution Control Board. Consent to operate a machine by itself is not a proof as to its actual operation. The conclusion reached by the Audit party is fallacious and without proof. In this case also, no solid documentary evidence is available to prove that any additional machine installed by the assessee during these years.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.70</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>70. Parappuram Granites (32151251755)</u></b> <b><u>2009-10 to 2012-13</u></b> <b><u>CTO, I Circle, Perumbavoor</u></b></p> <p><b><u>2009-10, 2010-11 &amp; 2011-12</u></b> On the basis of audit objection, the assessing authority issued notice to the dealer proposing to assess the differential tax amount. On receipt of the notice the assessee filed reply stating that they had purchased size III secondary crusher only on 29.07.2012 and the same was installed only on July 2013. The Assessee produced copy of purchase bill of crusher with inv No Excise 087 Dtd. 29.07.2012 and it was verified and genuine. It was duly accounted by the assessee in their purchase list for the month of July 2012. This transaction was duly entered in the check post transaction also. Hence the objection is unsustainable and may be dropped.</p> <p><b><u>2012-13</u></b> On the basis of audit objection, the assessing authority completed the assessment for the year 2012-13 on 31.01.2017 creating additional demand for Rs.3,58,000/-. The dealer filed appeal before the appellate authority and as per order no. KVATA 1252/17 Dtd. 04.04.2017 of the Deputy Commissioner Appeals(V) Ekm, allowed the appeal and department filed II<sup>nd</sup> appeal in this case.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.71	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>71. MAM Industries (32151289184)</u></b>  <b><u>2009-10, 2011-12 &amp; 2012-13</u></b>  <b><u>CTO, I Circle, Perumbavoor</u></b></p> <p>On the basis of audit objection notice was issued to the assessee proposing to assess the differential tax amount. On receipt of the notice the assessee filed reply stating that they had purchased an old size III secondary crusher only on 15.01.2013 and the same was installed only on January 2014. The power consumption details were collected from K S E B authorities and on verification of the same revealed that more power is consumed during 2013-14. Also inspection was conducted in the business place during these years to ascertain that there was only single crusher and permission was granted under single machine category. From this it is clear that the assessee had not under reported the size of secondary crusher during the years from 2009-10 to 2012-13. Hence the objection is unsustainable.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.72	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>72. Thottathil Granites (32151229435)</u></b>  <b><u>2009-10 to 2012-13</u></b>  <b><u>CTO, I Circle, Perumbavoor</u></b></p> <p>On the basis of audit objection notice was issued to the assessee proposing to assess the differential tax amount. On receipt of the notice the assessee filed reply stating that they had purchased size III secondary crusher only on 08.05.12 and the same was installed only on 20.4.13. The assessee produced copy of purchase bill of crusher with invoice No.186/12-13 dated 08.05.12 and it was verified and found genuine. It was duly accounted by the assessee in their purchase list. Also the assessee produced cash bill dated 20.4.13 received from Epsilon Engineering, Kizhakkambalam for erecting the crusher. From it is clear that the assessee had not under reported the size of secondary crusher during the years from 2009-10 to 2012-13.</p>

Para No.	Gist of the Case	Present Position										
2.6.1 Sl.No.73	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>73. Devamatha Rock Products (32151215362)</u></b> <b><u>2009-10 to 2012-13</u></b> <b><u>CTO, I Circle, Perumbavoor</u></b></p> <p>On the basis of audit objection, the assessing authority completed the assessment for the year 2009-10 on 16.12.2016 and completed the assessment for the years 2010-11, 2011-12 and 2012-13 on 28.12.2016, by creating additional demand as follows:</p> <table><tr><th>Year</th><th>Additional Demand</th></tr><tr><td>2009-10</td><td>Rs.4,36,680/-</td></tr><tr><td>2010-11</td><td>Rs.3,42,075/-</td></tr><tr><td>2011-12</td><td>Rs.2,97,279/-</td></tr><tr><td>2012-13</td><td>Rs.3,78,187/-</td></tr></table> <p>The collection of arrears is under stay as per WP© no 7671/2017.</p>	Year	Additional Demand	2009-10	Rs.4,36,680/-	2010-11	Rs.3,42,075/-	2011-12	Rs.2,97,279/-	2012-13	Rs.3,78,187/-
Year	Additional Demand											
2009-10	Rs.4,36,680/-											
2010-11	Rs.3,42,075/-											
2011-12	Rs.2,97,279/-											
2012-13	Rs.3,78,187/-											



Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.74	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>74. Periyar Granites Pvt. Ltd. (32151333082)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  The assessing authority completed the assessment on 15.03.2016 by creating additional demand for Rs.3,90,870/- including tax and interest. The dealer remitted Rs.45,450/- vide chalan no.120 dated 09.12.2016. Subsequently the dealer opted Amnesty Scheme 2020 and remitted 40% of tax due ie Rs.72,720/- vide Chalan No.KL0069100902021E Dated 24.08.2020. As interest waived fully, there is no arrears outstanding.</p> <p><b><u>2010-11</u></b>  The assessing authority completed the assessment on 15.03.2016 by creating additional demand for Rs. 3,39,360/- including tax and interest. The dealer remitted Rs.42,420/- vide Chalan No.119 dated 09.12.2016. Subsequently the dealer opted Amnesty Scheme 2020 and remitted 40% of tax due ie Rs.67,872/- vide Chalan No.KL0069100902021E dated 24.08.2020. As interest waived fully, there is no arrears outstanding.</p> <p><b><u>2011-12</u></b>  The assessing authority completed the assessment on 13.12.2016 by creating additional demand for Rs. 3,58,449/- including tax &amp; interest. Subsequently the dealer opted Amnesty Scheme 2020 and remitted 40% of tax due ie Rs.84,840/- vide Chalan No.KL0069100902021E dated 24.08.2020. As interest &amp; penalty waived fully, there is no arrears outstanding.</p> <p><b><u>2012-13</u></b>  The assessing authority completed the assessment on 13.12.2016 by creating additional demand for Rs. 3,76,800/- including tax &amp; interest. Subsequently the dealer opted Amnesty Scheme 2020 and remitted 40% of tax due ie Rs.96,000/- vide Chalan No.KL0069100902021E dated 24.08.2020. As interest &amp;</p>

		<p>penalty waived fully, there is no arrears outstanding.</p> <p><b><u>2013-14</u></b></p> <p>The assessing authority completed the assessment on 15.03.2016 by creating additional demand for Rs. 7,65,000/- including tax, interest &amp; penalty. Subsequently the dealer opted Amnesty Scheme 2020 and remitted 40% of tax due ie Rs.96,000/- vide Chalan No.KL0069100902021E dated 24.08.2020. As interest &amp; penalty waived fully, there is no arrears outstanding.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.75	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>75. Aradhana Industries (32151311684)</u></b>  <b><u>2009-10 to 2012-13</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  The assessing authority completed the assessment on 08.12.2016 by creating additional demand for Rs. 2,62,600/- as tax and Rs.1,78,568/- as interest. The dealer remitted Rs.1,32,000/-. Subsequently the dealer opted Amnesty Scheme 2020 and remitted 40% of tax due ie Rs.67,872/-vide Chalan No.KL0069100902021E dated 24.08.2020. As interest waived fully, there is no arrears outstanding.</p> <p><b><u>2010-11</u></b>  The assessing authority completed the assessment on 08.12.2016 by creating additional demand for Rs. 2,57,800/- as tax and Rs.1,44,368/- as interest. The dealer remitted Rs.1,32,000/-. Subsequently the dealer opted Amnesty Scheme 2020 and remitted 40% of tax due ie Rs.50,180/- vide Chalan No.KL01355472820202021E dated 27.11.2020. As interest waived fully, there is no arrears outstanding.</p> <p><b><u>2011-12</u></b>  The assessing authority completed the assessment on 08.12.2016 by creating additional demand for Rs. 3,99,200/- as tax and Rs.1,75,648/- as interest. The dealer remitted Rs.1,72,000/-. Subsequently the dealer opted Amnesty Scheme 2020 and remitted 40% of tax due ie Rs.90,696/- vide Chalan No.KL01355472820202021E dated 27.11.2020. As interest waived fully, there is no arrears outstanding.</p> <p><b><u>2012-13</u></b>  The assessing authority completed the assessment on 08.12.2016 by creating additional demand for Rs. 2,40,000/- as tax and Rs.76,800/- as interest. The dealer remitted Rs.95,000/-. Subsequently the dealer opted</p>

		Amnesty Scheme 2020 and remitted 40% of tax due ie Rs.57,984/- vide Chalan No.KL01355472820202021E dated 27.11.2020. As interest waived fully, there is no arrears outstanding.
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.76	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>76. KVM Granites (32151339156)</u></b>  <b><u>2011-12 to 2012-13</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2011-12</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 30.01.2016 under Section 25A creating additional demand of Rs.3,50,400/- consist of Tax&amp;Interest. Subsequently the assessing authority modified the assessment vide Order No.32151339156 dated 23.10.2020 according to the appellate order no KVATA No.1198/16(2011-12) Dated 26.03.2018 and additional demand reduced to 'Nil' Demand.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 31.01.2016 under Section 25A creating additional demand of Rs.3,21,600/- consist of Tax &amp; interest. Subsequently the assessing authority modified the assessment vide Order No.32151339156 dated 23.10.2020 according to the appellate order no KVATA No.1199/16(2012-13) Dated 26.03.2018 and additional demand reduced to 'Nil' Demand</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.77	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>77. Nabilson Granites (32151329954)</u></b>  <b><u>2011-12 to 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2011-12</u></b>  Short Levy reported as per C&amp; AG Report is Rs.8,90,820/- consisting of Tax:Rs.6,36,300/- and interest: Rs.2,54,520/-. Based on this, assessment was completed by the assessing authority on 27.07.2016 under Section 25A creating additional demand of Rs.9,28,998/- consisting of Tax Rs.6,36,300/- and interest Rs.2,92,698/-. RRC issued vide requisition No.142/2019-20 dated 25.06.2019 and is collectable. A penalty of Rs.12,72,600/- (being double the amount of tax evaded) was also imposed on the assessee under Section 67(1) vide order dated 27.07.2016 &amp; RRC issued vide requisition No.143/2019-20 dated 25.06.2019 and is collectable.</p> <p><b><u>2012-13</u></b>  Short Levy reported as per C&amp; AG Report is Rs.9,21,600/- consisting of Tax:Rs.7,20,000/- and interest: Rs.2,01,600/-. Based on this, assessment was completed by the assessing authority on 27.07.2016 under Section 25A creating additional demand of Rs.9,64,800/- consisting of Tax: Rs.7,20,000/- and interest: Rs.2,44,800/-. RRC issued vide requisition No.145/2019-20 dated 25.06.2019 and is collectable. A penalty of Rs.14,40,000/- (being double the amount of tax evaded) was also imposed on the assessee under Section 67(1) vide this office order dated 27.07.2016 &amp; RRC issued vide requisition No.144/2019-20 dated 25.06.2019 and is collectable.</p> <p><b><u>2013-14</u></b>  Short Levy reported as per C&amp; AG Report is Rs.8,35,200/- consisting of Tax:Rs.7,20,000/- and interest:Rs.1,15,200/-. Based on this, assessment was completed by the assessing authority on 27.07.2016</p>

		<p>under Section 25A creating additional demand of Rs.8,78,400/- consisting of Tax: Rs.7,20,000/- and interest: Rs.1,58,400/-. RRC issued vide requisition No.146/2019-20 dated 25.06.2019 and is collectable. A penalty of Rs.14,40,000/- (being double the amount of tax evaded) was also imposed on the assessee under Section 67(1) vide this office order dated 27.07.2016. RRC issued vide requisition No.147/2019-20 dated 25.06.2019 and is collectable.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.78	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>78. Raja Granites (32151330909)</u></b>  <b><u>209-10 to 2012-13</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  Short Levy reported as per C &amp; AG Report is Rs.10,51,814/- consisting of Tax:Rs.6,41,350/- and interest:Rs.4,10,464/-. Based on this, assessment was completed by the assessing authority on 15.03.2016 under Section 25A creating additional demand of Rs.10,96,709/- consisting of Tax:Rs.6,41,350/- and interest:Rs.4,55,359/-. RRC issued vide Requisition No.39C/2016-17 Dated 23.09.2016. Aggrieved by the above order the assessee filed appeal and remitted Rs.1,28,740/- vide chalan No.KL002839533201819M Dated 18.06.2018 to get Automatic Stay on the recovery of balance amount. Being not satisfied with the order of Appellate Authority(KVATA 1434/16 ), the assessee filed second appeal and obtained Tribunal Stay vide TA No.736/2018 till 29.01.2020. Later the assessee opted Amnesty Scheme 2020 and paid Rs.1,75,000/- with chalan no KL015274684202021E dtd 29/12/2020. This amount is equally apportioned among the demands outstanding against the financial years 2009-10 , 2010-11, 2011-12 and 2012-13 at Rs.43,750/- each. Subsequently the assessee filed a letter dated 01.01.2022 before the the assessing authority stating that he had withdrawn all appeals and opted to settle the arrears under Amnesty Scheme 2021. The assessee had not yet settled the arrears. Arrears under RR.</p> <p><b><u>2010-11</u></b>  Short Levy reported as per C&amp; AG Report is Rs.9,67,176/- consisting of Tax:Rs.6,36,300/- and interest:Rs.3,30,876/-. Based on this, assessment was completed by the assessing authority on 15.03.2016 under Section 25A creating additional demand of Rs.10,11,717/- consisting of Tax:Rs.6,36,300/- and</p>



		<p>interest:Rs.3,75,417/-. RRC issued vide Requisition No.45C/2016-17 Dated 27.09.2016. Aggrieved by the above order the assessee filed appeal and remitted Rs.1,27,260/- vide chalan No.KL002834407201819M Dated 18.06.2018 to get Automatic Stay on the recovery of balance amount. Being not satisfied with the order of Appellate Authority( KVATA 1435/16), the assessee filed second appeal and obtained Tribunal Stay vide TA No.737/2018 till 29.01.2020. Later the assessee opted Amnesty Scheme 2020 and paid Rs.1,75,000/- with chalan no KL015274684202021E dtd 29/12/2020. This amount is equally apportioned among the demands outstanding against the financial years 2009-10, 2010-11, 2011-12 and 2012-13 at Rs.43,750/- each. Subsequently the assessee filed a letter dated 01.01.2022 before the assessing authority stating that he had withdrawn all appeals and opted to settle the arrears under Amnesty Scheme 2021. The assessee had not yet settled the arrears. Arrears under RR.</p> <p><b><u>2011-12</u></b></p> <p>Short Levy reported as per C&amp; AG Report is Rs.5,85,396/- consisting of Tax:Rs.4,24,200/- and interest: Rs.1,61,196/-. Based on this, assessment was completed by the assessing authority on 15.11.2016 under Section 25A creating additional demand of Rs.6,57,510/- consisting of Tax:Rs.4,24,200/- and interest Rs.2,33,310/-. RRC issued vide Requisition No.174C/2016-17 Dated 15.02.2017. Aggrieved by the above order the assessee filed appeal and remitted Rs.86,000/- vide chalan No.KL007115534201617M Dated 31.03.2017. Later the assessee opted Amnesty Scheme 2020 and paid Rs.1,75,000/- with chalan no KL015274684202021E dtd 29/12/2020. This amount is apportioned among the demands outstanding against the financial years 2009-10 , 2010-11, 2011-12 and 2012-13 at Rs.43,750/- each. Subsequently the assessee filed a letter dated 01.01.2022 before the assessing authority stating that he had withdrawn all appeals and opted to settle the arrears under Amnesty Scheme 2021. The assessee had not yet settled the arrears. Arrears under RR.</p>
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		<p><b><u>2012-13</u></b></p> <p>Short Levy reported as per C&amp; AG Report is Rs.6,14,400/- consisting of Tax:Rs.4,80,000/- and interest:Rs.1,34,400/-. Based on this, assessment was completed by the assessing authority on 15.11.2016 under Section 25A creating additional demand of Rs.6,86,400/- consisting of Tax Rs.4,80,000/- and interest Rs.2,06,400/-. RRC issued vide Requisition No.175C/2016-17 Dated 15.02.2017. Aggrieved by the above order the assessee filed appeal and remitted Rs.96,000/- vide chalan No.KL007116490201617M Dated 31.03.2017. Later the assessee opted Amnesty Scheme 2020 and paid Rs.1,75,000/- with chalan no KL015274684202021E dtd 29/12/2020. This amount is apportioned among the demands outstanding against the financial years 2009-10 , 2010-11, 2011-12 and 2012-13 at Rs.43,750/- each. Again the assessee filed a letter dated 01.01.2022 before the assessing authority stating that he had withdrawn all appeals and opted to settle the arrears under Amnesty Scheme 2021. The assessee had not yet settled the arrears. Arrears under RR.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.79	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>79. Vadakkel Metals (32151382817)</u></b>  <b><u>2012-13 &amp; 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 30.11.2016 under Section 25A creating additional demand of Rs.3,45,600/- consist of Tax:Rs.2,40,000/- &amp; Interest:Rs.1,05,600/-. Dealer remitted 20% Rs.48,000/- as per Challan No. KL006217011201617 Dated 13.03.2017. Subsequently dealer opted Amnesty 2020 and paid 40% of the balance amount of Tax:Rs.67,200/- as per Challan KL005786357202021E dated 05.08.2020.</p> <p><b><u>2013-14</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 31.10.2015 under Section 25A creating additional demand of Rs.5,71,200/- consist of Tax:Rs.4,80,000/-&amp; interest:Rs.91,200/-. Dealer Paid Rs. 1 lakh as per Challan no.37 dated 30.03.2016, Rs.44,000/- paid as per Challan no.KL009799532201819M dated 28.11.18.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.80	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>80. St. Thomas Industries (32151370285)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 22.03.2016 creating additional demand of Rs.7,38,310/- consist of Tax Rs.4,29,250/-&amp; interest Rs.3,09,060/-. Subsequently Dealer Paid Rs. Rs.85,850/- being 20% of tax vide Chalan No.1012/11.11.2016. WPC No.10622 of 2018 filed by the assessee before the Hon'ble Court. Statement of facts filed.</p> <p><b><u>2010-11</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 22.03.2016 creating additional demand of Rs.5,17,120/- consist of Tax Rs.3,23,200/-&amp; interest Rs.1,93,920/-. Subsequently Dealer Paid Rs.64,640/- being 20% of tax vide Chalan No.4697692/16.01.2017. First Appellate Authority vide Order No.KVATA 2606/16 DTD.27.05.2017 dismissed the Appeal and decided the case in favour of Revenue.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 15.11.2016 creating additional demand of Rs.5,00,960/- consist of Tax Rs.3,23,200/- &amp; interest Rs.1,77,760/-. Subsequently Dealer remitted Rs.36,000/- vide Chalan No.5421006/16.02.2017 and Rs.28,640/- vide Chalan No.65111583/18.03.2017, for being 20% of tax due. First Appellate Authority vide Order No.KVATA 473/17 DTD.30.01.2018 dismissed the Appeal and decided the case in favour of Revenue.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 15.11.2016 creating</p>

		<p>additional demand of Rs.5,14,800/- consist of Tax Rs.3,60,000/- &amp; interest Rs.1,54,800/-. Subsequently dealer remitted 30% of tax due vide Chalan No.5421175 dated 10.02.2017 for Rs.36,000/-, Chalan No.6511188 Dated 18.03.2017 for Rs.36,000/- &amp; Chalan No.KL0131566850 DATED 19.03.2019 for Rs.36,000/-. First Appellate Authority vide Order No.KVATA 474/17 DTD.06.03.2018 dismissed the Appeal and decided the case in favour of Revenue.</p> <p><b><u>2013-14</u></b></p> <p>Short levy reported as per C&amp;AG Report is Rs.4,17,600/- consisting of Tax Rs.3,60,000/- and interest Rs.57,600/-. Based on this, assessment was completed vide this office proceedings dated 28.09.2015 under Section 25A creating additional demand of Rs.4,24,800/- consisting of Tax Rs.3,60,000/- along with interest Rs.64,800/-.</p> <p>Aggrieved by the above order the assessee filed appeal and remitted Rs.1,00,000/- vide chalan No.1358/23.09.2016 and the First Appellate Authority vide Order No.KVATA 2222/15 DTD.03.04.2017 dismissed the Appeal and decided the case in favour of Revenue.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.81	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPC B/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>81. Badhusha Metals (32151391817)</u></b>  <b><u>2012-13 &amp; 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2012-13</u></b>  Short Levy reported as per C&amp; AG Report is Rs.7,68,000/- consisting of Tax Rs.6,00,000/- and interest Rs.1,68,000/-. Based on this, assessment was completed by the assessing authority on 14.03.2018 under Section 25A creating additional demand of Rs.9,48,000/- consisting of Tax Rs.6,00,000/- and interest Rs.3,48,000/-. RRC issued vide requisition No.34/2018-19 dated 10.05.2018. The assessee filed WP© No.23270/18 dated 12.07.2018 which was disposed of with a direction to the Appellate Authority to dispose of KVATA No.1470/2018 filed by the assessee. Subsequently the assessing authority issued a letter on 21.03.2022 to Joint Commissioner, Appeals, Ernakulam for speedy disposal of the case. Appeal dismissed by the First Appellate Authority vide Order No.KVAT EKM.151/2021 DTD.28.02.2022. Amount under RR.</p> <p><b><u>2013-14</u></b>  Short Levy reported as per C&amp; AG Report is Rs.5,56,800/- consisting of Tax Rs.4,80,000/- and interest Rs.76,800/-. Based on this, assessment was completed by the assessing authority on 21.06.2016 under Section 66(1)(3) creating additional demand of Rs.4,8,000/- (Tax). RRC issued for collection of this amount along with interest of Rs.1,96,800/- vide requisition No.202/2017-18 dated 10.08.2017. Later said RR Requisition was returned from Deputy Commissioner, Muvattupuzha, with remarks insufficient funds in Bank Account. Hence Steps were initiated for submitting RR Requisition to Deputy Collector, Ernakulam.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.82	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p align="center"><b><u>82. Al-Madeena Granites &amp; Hollow Bricks</u></b>  <b><u>(32151306701)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  Notice issued proposing to demand balance tax Rs.2,77,750/- along with interest. Notice served to the assessee. Reply not filed. Steps were initiated to finalize the assessment proceedings.</p> <p><b><u>2010-11</u></b>  Notice issued proposing to demand balance tax Rs.1,81,800/- along with interest. Notice served to the assessee. Reply not filed. Steps were initiated to finalize the assessment proceedings.</p> <p><b><u>2011-12</u></b>  Notice issued proposing to demand balance tax Rs.1,81,800/- along with interest. Notice served to the assessee. Reply not filed. Steps were initiated to finalize the assessment proceedings.</p> <p><b><u>2012-13</u></b>  Notice issued proposing to demand balance tax Rs.2,00,000/- along with interest. Notice served to the assessee. Reply not filed. Steps were initiated to finalize the assessment proceedings.</p> <p><b><u>2013-14</u></b>  Short Levy reported as per C&amp;AG report is tax Rs.3,60,000/- and interest Rs. 58,000/-. The assessee conceded only one secondary crusher of size II and remitted compounded tax of Rs.1,20,000/- during 2013-14. The Intelligence Officer Squad 4, Mattancherry detected that the assessee had installed One Secondary Crusher of size III and One Primary Crusher. Based on the crime file assessment was completed vide order No.32151306701/13-14 dtd.29.12.2015 creating additional demand Rs.4,65,000/- consisting of tax</p>

		Rs.3,60,000/- and interest Rs.1,08,000/-. RR requisition were issued from this office to Deputy Commissioner, Muvattupuzha vide requisition No.155/15-16 dtd.08.03.16 and is collectable .
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Para No.	Gist of the Case	Present Position
<b>2.6.1</b> <b>Sl.No.83</b>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>83. Perumbavoor Aggregates (32151399006)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b> Short Levy reported as C&amp;AG Report is Rs.3,72,690/- consisting of Tax:Rs.2,27,250/- and interest:Rs.1,45,440/-. Based on this, assessment was completed vide order dtd.10.03.2016 under section 25A creating additional demand of Rs.3,90,870/- consisting of Tax Rs.2,27,250/- and interest Rs.1,63,620/-. RR Requisitions issued to District Collector, Ernakulam for collection of this amount vide requisition No.2017/5814/07 dated 14.09.2017. Aggrieved by the above order the assessee filed appeal and the first Appellate Authority, vide order No.KVATA 4396/17 dated 30.08.2018 set aside the assessment order.</p> <p><b><u>2010-11</u></b> Short Levy reported as C&amp;AG Report is Rs.3,22,392/- consisting of Tax:Rs.2,12,100/- and interest Rs.1,10,292/-. Based on this, assessment was completed vide order dtd.10.03.2016 under section 25A creating additional demand of Rs.3,39,360/- consisting of Tax:Rs.2,12,100/- and interest:Rs.1,27,260/-. RR Requisitions issued to District Collector, Ernakulam for collection of this amount vide requisition No.2017/5815/07 dated 14.09.2017. Aggrieved by the above order the assessee filed appeal and the first Appellate Authority, vide order No.KVATA 4397/17 dated 30.08.2018 set aside the assessment order.</p> <p><b><u>2011-12</u></b> Short Levy reported as per C&amp; AG Report is Rs.2,96,940/- consisting of Tax:Rs.2,12,100/- and interest:Rs.84,840/-. Based on this, assessment was completed by the assessing authority on 10.11.2016 under Section 25A creating additional demand of Rs.3,54,207/- consisting of Tax Rs.2,12,100/- and interest</p>

		<p>Rs.1,42,107/-. RRC issued to District Collector, Ernakulam for collection of this amount vide requisition No.2017/5820/07 dated 14.09.2017. Aggrieved by the above order the assessee filed appeal and the First Appellate Authority, vide order No.KVATA4399/17 Dated 30.08.2018 set aside the assessment order.</p> <p>A penalty of Rs.4,24,200/- (being double the amount of tax evaded) was also imposed on the assessee under Section 67(1) vide order dated 10.11.2016 . RRC issued to District Collector, Ernakulam for collection of this amount vide requisition No.2017/5821/07 dated 14.09.2017. Aggrieved by the above order the assessee filed appeal and the First Appellate Authority, vide order No.KVATA 4398/17(2011-12) Dated 14.11.2018 set aside the Penalty order.</p> <p><b><u>2012-13</u></b></p> <p>Short Levy reported as per C &amp; AG Report is Rs.3,07,200/- consisting of Tax Rs.2,40,000/- and interest Rs.67,200/-. Based on this, assessment was completed by the assessing authority on 10.11.2016 under Section 25A creating additional demand of Rs.4,18,500/- consisting of Tax:Rs.2,70,000/- and interest:Rs.1,48,500/-. RR Requisitions were issued to District Collector, Ernakulam for collection of this amount vide requisition No.2017/5822/07 dated 14.09.2017. Aggrieved by the above order the assessee filed appeal and the First Appellate Authority, vide order No.KVATA 4401/17 Dated 30.08.2018 set aside the assessment order. A penalty of Rs.4,24,200 was also imposed on the assessee under Section 67(1) vide order dated 10.11.2016 . RR Requisitions were issued to District Collector, Ernakulam for collection of this amount vide requisition No.2017/5823/07 dated 14.09.2017. Aggrieved by the above order the assessee filed appeal and the First Appellate Authority, vide order No.KVATA 4400/17(2012-13) Dated 14.11.2018 set aside the Penalty order.</p> <p><b><u>2013-14</u></b></p> <p>Short Levy reported as per C&amp; AG Report is Rs.2,78,400/- consisting of Tax Rs.2,40,000/- and interest</p>
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		<p>Rs.38,400/-. Based on this, assessment was completed by the assessing authority on 10.11.2016 under Section 25A creating additional demand of Rs.3,43,200/- consisting of Tax Rs.2,40,000/- and interest Rs.1,03,200/-. RR Requisitions were issued to District Collector, Ernakulam for collection of this amount vide requisition No.2017/5824/07 dated 14.09.2017. A penalty of Rs.4,80,000/- was also imposed on the assessee under Section 67(1) vide order dated 10.11.2016. RR Requisitions were issued to District Collector, Ernakulam for collection of this amount vide requisition No.2017/5825/07 dated 14.09.2017. Aggrieved by the above order the assessee filed appeal and the First Appellate Authority, vide order No.KVATA 4402/17(2013-14) Dated 14.11.2018 set aside the Penalty order .</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.84	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KS PCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>84. Navodaya Granites (32151397904)</u></b>  <b><u>2009-10 to 2012-13</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  Short Levy reported as per C &amp; AG Report is Rs.4,55,510/- consisting of Tax:Rs.2,77,750/- and interest:Rs.1,77,760/-. Based on this, assessment was completed by the assessing authority on 15.03.2016 under Section 25A creating additional demand of Rs.4,77,730/- consisting of Tax:Rs.2,77,750/- and interest:Rs.1,99,980/-. RR Requisitions were issued vide requisition No.20/E/2016-17 dated 26.06.2016.</p> <p><b><u>2010-11</u></b>  Short Levy reported as per C&amp; AG Report is Rs.2,76,336/- consisting of Tax:Rs.1,81,800/- and interest:Rs.94,536/-. Based on this, assessment was completed by the assessing authority on 15.03.2016 under Section 25A creating additional demand of Rs.2,90,880/- consisting of Tax:Rs.1,81,800/- and interest Rs.1,09,080/-. RR Requisitions were issued for collection of this amount vide requisition No.19/E/2016-17 dated 26.06.2016.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 31.08.2016 under Section 25A creating additional demand consist of Tax &amp; Interest Rs.2,59,974/- and Penalty Rs.3,63,600/-. Subsequently the assessment order was remanded by KVATA No.846/A/17 dated .02.04.18 of DC(A),Ekln and Penalty order was set aside by No.KVATA 365/17 Dated 28.02.2018 of DC(A),Ekm.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 08.11.2016 under Section 25A creating additional demand of Rs.7,94,000/- consist of Tax, interest and Penalty. Subsequently RRC issued vide RRC no 6/E/17-18 dated 17.04.2017.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.85	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/ Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>85. M G Industries (32151333137)</u></b>  <b><u>2010-11 to 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2010-11</u></b>  Based on the audit objection, assessment was completed by the assessing authority 16.03.2016 under Section 25A creating additional demand Rs.2,80,000/- consist of Tax &amp; Interest. RRC issued vide RRC No - 21/E/16-17. Subsequently the dealer remitted Rs.87,264/- and obtained stay from DC(Appeals) EKM.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, assessment was completed by the assessing authority 01.10.2016 under Section 25A creating additional demand Rs.6,18,000/- consist of Tax, Interest &amp; Penalty. Assessment order Set aside by KVATA No.3597 dtd.31/01/19 of DC(A) EKM. Penalty order set aside by KVATA8734/17 Dated 27.04.2018 of DC(A)Ekml.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed by the assessing authority 07.11.2016 under Section 25A creating additional demand Rs.6,62,000/- consist of Tax, Interest &amp; Penalty. Assessment order Set aside KVATA No. 3758/16 dtd.31/01/19. Penalty Order set aside by KVATA No.874/4/17 Dated 27.04.2018 of DC(A),Ekm.</p> <p><b><u>2013-14</u></b>  Based on the audit objection, assessment was completed by the assessing authority 19.12.2016 under Section 25A creating additional demand Rs.6,86,000/- consist of Tax, Interest &amp; Penalty. RRC issued for the arrear due. Subsequently dealer paid vide Chalan No.KL0059698162016-17M Dated 04.03.2017 for Rs.40,000/-, Paid vide Chalan No.KL007611377 Dated 20.09.19 for Rs.40,000/-, Paid vide Cheque No.126483 of SBI, Kolencherry dated 29.11.2019 for Rs.40,000/-,Paid</p>

		vide Chalan No.KL015305788 Dated 27.02.2020 for Rs.40,000/- and Paid vide Chalan No.KL016479261 Dated 24.03.2020 for Rs.40,000/-.
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>SL.No.86</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>86. Vijaya Granites (32151300502)</u></b> <b><u>2009-10 to 2012-13</u></b> <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b> Based on the Audit objection Notice U/S 25A r/w 42(3) was issued to the assessee demanding tax Rs.3,03,000/- along with interest. Reply filed by the assessee. Steps were initiated for finalization of assessment procedures.</p> <p><b><u>2010-11</u></b> Based on the Audit objection Notice U/S 25A r/w 42(3) was issued to the assessee demanding tax Rs.2,82,800/- along with interest. Reply filed by the assessee. Steps were initiated for fictionalization of assessment procedures.</p> <p><b><u>2011-12</u></b> Based on the Audit objection Notice U/S 25A r/w 42(3) was issued to the assessee demanding tax Rs.2,82,000/- along with interest. Reply filed by the assessee. Steps were initiated for finalization of assessment procedures.</p> <p><b><u>2012-13</u></b> Based on the Audit objection Notice U/S 25A r/w 42(3) was issued to the assessee demanding tax Rs.3,20,000/- along with interest. Reply filed by the assessee. Steps were initiated for finalization of assessment procedures.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.87</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>87. Varkisons Engineers (32151375112)</u></b> <b><u>2013-14</u></b> <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2013-14</u></b> Notice U/s.25A read with 42(3) was issued to the assessee demanding tax Rs.7,20,000/- along with interest. Reply filed by the assessee. Steps were initiated from this office for finalization of assessment proceedings.</p>



Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.88	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>88. B &amp; M Granites (32151361689)</u></b>  <b><u>2011-12 to 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2011-12</u></b>  Based on the audit objection, assessment was completed by the assessing authority 10.11.2016 under Section 25A creating additional demand Rs.7,52,885/- consist of Tax &amp; Interest &amp; penalty. The amount is under RR.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed by the assessing authority 10.11.2016 under Section 25A creating additional demand Rs.8,23,200/- consist of Tax &amp; Interest &amp; penalty. The amount is under RR vide .Req No.2017/6034/07 dated 25.09.2017. The recovery proceedings are under stay by High Court as per WP(C) No.2347/18.</p> <p><b><u>2013-14</u></b>  Based on the audit objection, assessment was completed by the assessing authority 30.10.2015 under Section 25A creating additional demand Rs.6,96,000/- consist of Tax &amp; Interest .The amount is under RR vide RRC No.125C/15-16.  Assessee settled the arrears for the financial years 2011-12 , 2012-13 &amp; 2013-14 by opting amnesty scheme 2022.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.89	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>89. Union Granites (32151384909)</u></b>  <b><u>2010-11 to 2012-13</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2010-11</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 08.03.2016 under Section 25A creating additional demand of Rs.2,83,000/- as Tax and Rs.4,47,000/- as interest. The amount is under RR. Subsequently the dealer opted Amnesty scheme and paid the arrears vide Chalan No.KL021138806202021E dtd. 18.03.2021.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 08.03.2016 under Section 25A creating additional demand of Rs.2,82,000/- as Tax and Rs.3,33,000/- as interest. The amount is under RR . Subsequently the dealer opted Amnesty scheme and paid the arrears vide Chalan No. KL021138806202021E dtd. 18.03.2021.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 08.03.2016 under Section 25A creating additional demand of Rs.3,20,000/- as Tax and Rs.4,29,000/- as interest. The amount is under RR . Subsequently the dealer opted Amnesty scheme and paid the arrears vide Chalan No. KL021138806202021E dtd. 18.03.2021.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.90	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>90. Modern Cemeto Bricks (32151360532)</u></b>  <b><u>2012-13 to 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 14.11.2016 under Section 25A creating additional demand of Rs.2,40,000/- as Tax and Rs.132000/- as interest and Rs.4,80,000/- as penalty. Subsequently dealer paid Rs.48,000/- vide Chalan No.KL000087066201718M and Rs.32,000/- as per chalan no. KL005452674 dtd.01.08.2019 and 40% of the balance amount paid under amnesty on 29.12.2020 vide chalan no. KL015275246202021E.</p> <p><b><u>2013-14</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 14.11.2016 under Section 25A creating additional demand of Rs.2,40,000/- as Tax and Rs.1,03,200/- as interest and Rs.4,80,000/- as penalty. Subsequently dealer paid Rs.48,000/- vide Chalan No.KL000087066201718M, and Rs.32,000/- as per chalan no. KL005452674 dtd.01.08.2019 and 40% of the balance amount paid under amnesty on 29.12.2020 vide chalan no. KL015275246202021E.</p>

Para No.	Gist of the Case	Present Position																					
2.6.1 Sl.No.91	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>91. Parathuvayalil Granites (32151422935)</u></b>  <b><u>2009-10</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p>The audit objection was that the assessee did not disclose one primary crusher during 2009-10 used along with one cone crusher. The short levy was worked out to Rs.5,05,000.00. The Commercial Tax Officer, Muvattupuzha vide Order No.32151422935/2009-10 dated 10-12-2010 completed the escaped assessment as pointed out in the audit and the demand was paid by the assessee vide the following Chalans.</p> <table border="1"> <thead> <tr> <th>Chalan No</th><th>Date</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>S-112</td><td>19-10-2010</td><td>Rs.84,167.00</td></tr> <tr> <td>62</td><td>24-01-2011</td><td>Rs.84,167.00</td></tr> <tr> <td>243</td><td>26-03-2011</td><td>Rs.1,51,936.00</td></tr> <tr> <td>242</td><td>31-01-2012</td><td>Rs.1,00,000.00</td></tr> <tr> <td>119</td><td>29-12-2012</td><td>Rs.1,00,000.00</td></tr> <tr> <td></td><td></td><td>Rs.5,20,270.00</td></tr> </tbody> </table> <p>Steps may kindly be taken to drop the objection raised in the audit.</p>	Chalan No	Date	Amount	S-112	19-10-2010	Rs.84,167.00	62	24-01-2011	Rs.84,167.00	243	26-03-2011	Rs.1,51,936.00	242	31-01-2012	Rs.1,00,000.00	119	29-12-2012	Rs.1,00,000.00			Rs.5,20,270.00
Chalan No	Date	Amount																					
S-112	19-10-2010	Rs.84,167.00																					
62	24-01-2011	Rs.84,167.00																					
243	26-03-2011	Rs.1,51,936.00																					
242	31-01-2012	Rs.1,00,000.00																					
119	29-12-2012	Rs.1,00,000.00																					
		Rs.5,20,270.00																					

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.92	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/ Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>92. St. Mary's Granites (32151309467)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>STO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  Short Levy reported as per C&amp; AG Report is Rs.3,72,690/- consisting of Tax Rs.2,27,250/- and interest Rs.1,45,440/-. Based on this, assessment was completed by the assessing authority on 19.04.2016 under Section 25A creating additional demand of Rs.3,90,870/- consisting of Tax:Rs.2,27,250/- and interest:Rs.1,63,620/-. RR Requisitions were issued to Deputy Commissioner, Muvattupuzha for collection of this amount vide requisition No.127/D/2016-17 dated 04.01.2017. Aggrieved by the above order the assessee filed appeal and the First Appellate Authority, vide order No.KVATA 1890/16 Dated 31.03.2018 disposed the case in favour of revenue. Again the assessee filed second appeal and the Hon'ble Tribunal vide order No.379/18 dated 08.10.2020 set aside the assessment order dated 19.04.2016. A letter dated 18.01.2021 was submitted to Joint Commissioner of State Tax(Law), Thiruvananthapuram intimating that there is no scope for filing OT Revision.</p> <p><b><u>2010-11</u></b>  Short Levy reported as per C&amp; AG Report is Rs.3,22,392/- consisting of Tax:Rs.2,12,100/- and interest:Rs.1,10,292/-. Based on this, assessment was completed by the assessing authority on 19.04.2016 under Section 25A creating additional demand of Rs.3,39,360/- consisting of Tax:Rs.2,12,100/- and interest:Rs.1,27,260/-. RR Requisitions were issued to Deputy Commissioner, Muvattupuzha for collection of this amount vide requisition No.128/D/2016-17 dated 04.01.2017. Aggrieved by the above order the assessee filed appeal and the First Appellate Authority, vide order No.KVATA 1891/16 Dated 31.03.2018 disposed the case in favour of revenue. Again the assessee filed second appeal and the Hon'ble Tribunal vide order No.381/18 dated 08.10.2020 set aside the</p>

	<p>assessment order dated 19.04.2016. A letter dated 18.01.2021 was submitted to Joint Commissioner of State Tax(Law), Thiruvananthapuram intimating that there is no scope for filing OT Revision.</p> <p><b><u>2011-12</u></b></p> <p>Short Levy reported as per C&amp; AG Report is Rs.5,93,880/- consisting of Tax:Rs.4,24,200/- and interest:Rs.1,69,680/-. Based on this, assessment was completed by the assessing authority on 19.04.2016 under Section 25A creating additional demand of Rs.6,27,816/- consisting of Tax:Rs.4,24,200/- and interest:Rs.2,03,616/-. RR Requisitions were issued to Deputy Commissioner, Muvattupuzha for collection of this amount vide requisition No.129/D/2016-17 dated 04.01.2017. Aggrieved by the above order the assessee filed appeal and the First Appellate Authority, vide order No.KVATA 1893/16 Dated 31.03.2018 disposed the case in favour of revenue. Again the assessee filed second appeal and the Hon'ble Tribunal vide order No.383/18 dated 08.10.2020 set aside the assessment order dated 19.04.2016. A letter dated 18.01.2021 was submitted to Joint Commissioner of State Tax(Law), Thiruvananthapuram intimating that there is no scope for filing OT Revision.</p> <p><b><u>2012-13</u></b></p> <p>The Audit Party observed that though assessee reported one secondary crusher size II and one primary crusher, he had actually installed two secondary crushers of Size II and one Primary crusher. Tax evasion detected by the Audit party amounts to Rs.3,07,200/- consisting of Tax:Rs.2,40,000/- and Interest:Rs.67,200/-.</p> <p>Actually the assessee had conceded two secondary Crushers of Size II and one Primary Crusher during the financial year 2012-13. The Assessing Authority [based on the joint verification conducted by Intelligence Squad 1, Mattancherry by the Audit Party (SIR No.074890 Dated 20.06.2016)] found that assessee had installed two secondary Crusher of Size III and one Primary Crusher and reopened assessment for the financial year 2012-13 demanding balance Tax of Rs.4,80,000/- along with interest Rs.2,11,200/- vide order No.32151309467/2012-13 dated</p>
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		<p>22.12.2016.</p> <p>Later the assessee filed Appeal and the First Appellate Authority vide order No.KVATA 330/17 Dated 26.02.2019 set aside the assessment order.</p> <p><b><u>2013-14</u></b></p> <p>Short Levy reported as per C&amp; AG Report is Rs.5,56,800/- consisting of Tax:Rs.4,80,000/- and interest:Rs.76,800/-. Based on this, assessment was completed by the assessing authority on 19.04.2016 under Section 25A creating additional demand of Rs.5,95,200/- consisting of Tax:Rs.4,80,000/- and interest:Rs.1,15,200/-. RR Requisitions were issued to Deputy Commissioner, Muvattupuzha for collection of this amount vide requisition No.130/D/2016-17 dated 04.01.2017. Aggrieved by the above order the assessee filed appeal and the First Appellate Authority, vide order No.KVATA 1894/16 Dated 31.03.2018 disposed the case in favour of revenue. Again the assessee filed second appeal and the Hon'ble Tribunal vide order No.384/18 dated 08.10.2020 set aside the assessment order dated 19.04.2016. A letter dated 18.01.2021 was submitted to Joint Commissioner of State Tax(Law), Thiruvananthapuram intimating that there is no scope for filing OT Revision.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.93	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>93. Star Granites (32151379983)</u></b>  <b><u>2010-11 to 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2010-11</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 25.01.2016 under Section 25A creating additional demand of Rs.2,12,000/- as Tax and Rs.3,26,000/- as interest. Subsequently dealer paid Rs.42,420/- vide Chalan No.160/23.11.2016 opted amnesty scheme 2020 and remitted 40% of balance tax due Vide Chalan No.KL0055308202021E Dated 30.07.2020 for Rs.67,872/-.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 25.01.2016 under Section 25A creating additional demand of Rs.2,12,000/- as Tax and Rs.3,01,000/- as interest. Subsequently dealer paid Rs.41,580/- vide Chalan No.161/23.11.2016 and opted amnesty scheme 2020 and remitted 40% of balance tax due Vide Chalan No.KL0055308202021E Dated 30.07.2020 for Rs.66,528/-.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 25.01.2016 under Section 25A creating additional demand of Rs.2,40,000/- as Tax and Rs.3,12,000/- as interest. Subsequently dealer paid Rs 48,000/- vide Chalan No.163/23.11.2016 and opted amnesty scheme 2020 and remitted 40% of balance tax due Vide Chalan No.KL0055308202021E Dated 30.07.2020 for Rs.76,800/-.</p> <p><b><u>2013-14</u></b>  Short levy as per C&amp; AG Report for the financial year 2013-14 consists of Tax Rs.2.40 lakhs, Interest Rs.0.65 lakhs and penalty Rs.4.80 lakhs totaling Rs.7.85 Lakhs. During the financial year 2013-14, the assessee conceded</p>



	<p>one Primary Crusher of Size III and one Secondary Crusher of Size II and as per the Compounding Order in Form No.1E dated 02.05.2013 issued from this office the assessee was permitted to pay compounded Tax of Rs.2,40,000/- for the financial year 2013-14.</p> <p>Later the Intelligence Officer, Squad No.V, Mattancherry at Aluva conducted inspection at the business place of the assessee and found that Two Secondary Crushers of Size III and one Primary Crusher of Size III was installed at the Business Premises of the assessee. Being found that the assessee concealed one machinery and under reported size of another machinery, a notice under Section 67(1) was issued to the assessee by the Intelligence Officer. Later the Intelligence officer found that out of Two Secondary Crushers of Size III installed at the business premises, one was purchased only on 01.02.2014 ie Last Quarter of the financial year 2013-14. The assessee was permitted to compound the offence under Section 74 on payment of Compounding fee of Rs.1,80,000/- vide order No.ISM/V/94/2013-14/Dated 06.02.2015.</p> <p>Based on the above Crime File assessment for the financial year 2013-14 was reopened by issuing notice under Section 25(1) dated 25.05.2015 proposing to reopen the compounding order dated 02.05.2013 issued from this office and re-fixing compounded Tax as Rs.6,00,000/- for the financial year 2013-14 which is calculated as under</p> <p><b><u>A.Compounding Tax Applicable for the first 3 quarter of the financial year 2013-14</u></b></p> <table> <tr> <td>Secondary Crusher of Size III(One No.)</td><td>: Rs.3,20,000/-</td></tr> <tr> <td>Primary Crusher of Size III</td><td>:Rs.1,60,000/-</td></tr> <tr> <td>Total Yearly Compounding Tax</td><td>:Rs.4,80,000/-</td></tr> <tr> <td>Compounding Tax for 3 quarters</td><td>:Rs.3,60,000/-</td></tr> </table> <p><b><u>B. Compounding Tax Applicable for the 4<sup>th</sup> Quarter</u></b></p> <table> <tr> <td>Secondary Crusher of Size III(2Nos)</td><td>: Rs.6,40,000/-</td></tr> <tr> <td>Primary Crusher of Size III</td><td>: Rs.3,20,000/-</td></tr> <tr> <td>Total Yearly Compounding Tax</td><td>: Rs.9,60,000/-</td></tr> <tr> <td>Compounding Tax for 1 quarter</td><td>: Rs.2,40,000/-</td></tr> </table> <p><b>A+B= 3,60,000+2,40,000= Rs.6,00,000/-</b></p>	Secondary Crusher of Size III(One No.)	: Rs.3,20,000/-	Primary Crusher of Size III	:Rs.1,60,000/-	Total Yearly Compounding Tax	:Rs.4,80,000/-	Compounding Tax for 3 quarters	:Rs.3,60,000/-	Secondary Crusher of Size III(2Nos)	: Rs.6,40,000/-	Primary Crusher of Size III	: Rs.3,20,000/-	Total Yearly Compounding Tax	: Rs.9,60,000/-	Compounding Tax for 1 quarter	: Rs.2,40,000/-
Secondary Crusher of Size III(One No.)	: Rs.3,20,000/-																
Primary Crusher of Size III	:Rs.1,60,000/-																
Total Yearly Compounding Tax	:Rs.4,80,000/-																
Compounding Tax for 3 quarters	:Rs.3,60,000/-																
Secondary Crusher of Size III(2Nos)	: Rs.6,40,000/-																
Primary Crusher of Size III	: Rs.3,20,000/-																
Total Yearly Compounding Tax	: Rs.9,60,000/-																
Compounding Tax for 1 quarter	: Rs.2,40,000/-																

		<p>The assessee had already remitted Rs.2,40,000/- (ie the Compounded Tax fixed vide order dated 02.05.2013) along with returns for the financial year 2013-14.</p> <p>On receipt of the notice the assessee remitted Rs.4,03,200/- (Consisting of balance Tax Rs.3,60,000/- + Interest Rs.43,200/-) vide Chalan No.665 dated 03.06.2015.</p> <p>Later the proposal vide Notice under Section 25(1) dated 25.05.2015 was confirmed vide this office order No.32151379983/13-14/KVAT Dated 29.05.2015.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.94	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>94. Shalimar Granites (32151312325)</u></b>  <b><u>2009-10 &amp; 2010-11</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 19.12.2015 under Section 25A creating additional demand of Rs.2,27,234/- as Tax and Rs.1,56,791/- as interest. Subsequently the dealer obtained stay from High Court of Kerala vide WPC No. 35196/17.</p> <p><b><u>2010-11</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 19.12.2015 under Section 25A creating additional demand of Rs.2,42,400/- as Tax and Rs.1,35,744/- as interest. Subsequently the dealer obtained stay from High Court of Kerala vide WPC No. 35196/17.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.95	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>95. Mundakkal Granites (32151325612)</u></b>  <b><u>2010-11 to 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2010-11</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 15.03.2016 under Section 25A creating additional demand of Rs.2,82,800/- as Tax and Rs.1,90,890/- as interest and Rs.6,36,300/- as penalty. Subsequently the dealer filed appeal and as per the direction in Appellate order No.KVATA No.2095 to 2100/18 dated 30.08.2018 of DC ( Appeals) , the assessing authority modified the assessment on 27.11.2018 as Nil demand.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 14.11.2016 under Section 25A creating additional demand of Rs.2,12,100/- as Tax and Rs.1,16,655/- as interest and Rs.4,24,000/- as penalty . Subsequently the dealer filed appeal and as per the direction in Appellate order No.KVATA No.2095 to 2100/18 dated 30.08.2018 of DC ( Appeals), the assessing authority modified the assessment on 27.11.2018 as Nil demand.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 14.11.2016 under Section 25A creating additional demand of Rs.2,40,000/- as Tax and Rs.1,03,200/- as interest and Rs.4,80,000/- as penalty. Subsequently the dealer filed appeal and as per the direction in Appellate order No.KVATA No.2095 to 2100/18 dated 30.08.2018 of DC(Appeals), the assessing authority modified the assessment on 27.11.2018 as Nil demand.</p> <p><b><u>2013-14</u></b>  Based on the audit objection, assessment was completed</p>

		<p>by the assessing authority on 14.11.2016 under Section 25A creating additional demand of Rs.2,40,000/- as Tax and Rs.74,400/- as interest and Rs.4,80,000/- as penalty. Subsequently the dealer filed appeal and as per the direction in Appellate order No.KVATA No 2095 to 2100/18 dated 30.08.2018 of DC(Appeals), the assessing authority modified the assessment on 27.11.2018 as Nil demand.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.96	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>96. Afsiya Granites (32151377226)</u></b>  <b><u>2009-10 to 2012-13</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 14.03.2016 under Section 25A creating additional demand of Rs.1,29,533/- as Tax and Rs.48,480/- as interest. Subsequently dealer opted Amnesty scheme and paid Rs.25,250/- vide Chalan No. KL001169924201819 dated 17.04.2018, Rs.25,250/- vide Chalan No.KL001606027201819 dated 14.05.2018, and Rs.25,250/- vide Chalan No.KL003129374201819 dated 27.06.2018.</p> <p><b><u>2010-11</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 14.03.2016 under Section 25A creating additional demand of Rs.1,76,649/- as Tax and Rs.57,772/- as interest. Subsequently dealer opted Amnesty scheme and paid Rs.37,033/- vide Chalan No. KL000469850201819 dated 17.04.2018, Rs.37,033/- vide Chalan No.KL001605804201819 dated 14.05.2018, and Rs.37,033/- vide Chalan No.KL0031292952201819 dated 27.06.2018.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 08.11.2016 under Section 25A creating additional demand of Rs.90,900/- as Tax and Rs.49,995/- as interest. Subsequently dealer opted Amnesty scheme and paid Rs.20,000/- vide Chalan.KL00882160201819, dtd 30.11.2018, Rs.20,000/- vide Chalan no.9877014 dtd 31.12.18, Rs.25,000/- dated 31.07.2018, and Rs.25,000/- vide Chalan no. KL004631272201819 dtd. 25.10.2018.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed</p>

		by the assessing authority on 08.11.2016 under Section 25A creating additional demand of Rs.1,00,000/- as Tax and Rs.43,000/- as interest. Subsequently dealer opted Amnesty scheme and paid Rs.20,000/- vide Chalan.KL008821819201819 dtd 30.11.2018, Rs.20,000/-Chalan no.9877014 dtd 31.12.18, Rs.25,000/- dated 31.07.2018, Rs.25,000/- Chalan No.KL004631272201819 dated 25.10.2018
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.97</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>97. Dhanya Granites (32151333284)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p>On the basis of audit objection, the assessing authority issued notice to the dealer and further reply will be submitted soon.</p>



Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.98</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>98. New National Granites (32151348595)</u></b> <b><u>2010-11 to 2013-14</u></b> <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2010-11</u></b> Based on the audit objection, assessment was completed by the assessing authority on 07.11.2016 under Section 25A creating additional demand of Rs.2,12,000/- as Tax and Rs.1,61,196/- as interest and Rs.4,24,000/- as penalty. Original assessment completed was set aside by Hon'ble High Court vide Judgement WP(C)No.19401 of 2017 dated 27.06.2017 with direction for Fresh disposal. Later assessment were completed afresh retaining the same Tax effect and Penalty. Penalty Orders for 2010-11,2011-12,2012-13 and 2013-14 are dated 17.07.2017 and assessment orders for the said years are dated 12.07.2017. Subsequently the assessee opted Amnesty Scheme 2019 and settled all arrears related to Tax. Interest and Penalty are waived. Assessee paid Rs.96,805/-vide chalan No.KL009802664 Dated 07.11.2019 and Rs.96,805/-vide chalan No.KL015807589 dated 06.03.2020 and Rs.96,805/- vide chalan No.KL016151046 dated 13.03.2020 and Paid Rs.2,90,415/- vide chalan No.KL016471398 dated 20.03.2020 and Paid Rs.1,54,410/- vide chalan No.KL011689664201718 dtd 13.03.18 and Paid 1,68,960/- vide Chalan No.KL000049413201819M dtd 04.04.2018.</p> <p><b><u>2011-12</u></b> Based on the audit objection, assessment was completed by the assessing authority on 07.11.2016 under Section 25A creating additional demand of Rs.2,12,000/- as Tax and Rs.1,35,744/- as interest and Rs.42,4000/- as penalty. Original assessment completed was set aside by Hon'ble High Court vide Judgement WP(C)No.19401 of 2017 dated 27.06.2017 with direction for Fresh disposal. Later assessment were completed afresh retaining the same Tax effect and Penalty. Penalty Orders for 2010-11,2011-12,2012-13 and 2013-14 are dated 17.07.2017 and</p>

assessment orders for the said years are dated 12.07.2017. Subsequently the assessee opted Amnesty Scheme 2019 and settled all arrears related to Tax. Interest and Penalty are Waived. Assessee paid Rs.96,805/- vide chalan No.KL009802664 Dated 07.11.2019 and Rs.96,805/- vide chalan No.KL015807589 dated 0603.2020 and Rs.96,805 vide chalan No.KL016151046 dated 13.03.2020 and Paid Rs.2,90,415/- vide chalan No.KL016471398 dated 20.03.2020 and Paid Rs.1,54,410/- vide chalan No.KL011689664201718 dtd 13.03.18 and Paid Rs.1,68,960/- vide Chalan No.KL000049413201819M dtd 04.04.2018.

#### **2012-13**

Based on the audit objection, assessment was completed by the assessing authority on 07.11.2016 under Section 25A creating additional demand of Rs 2,40,000/- as Tax and Rs.1,24,800/- as interest and Rs.4,84,000/- as penalty. Original assessment completed was set aside by Hon'ble High Court vide Judgement WP(C)No.19401 of 2017 dated 27.06.2017 with direction for Fresh disposal. Later assessment were completed afresh retaining the same Tax effect and Penalty. Penalty Orders for 2010-11, 2011-12, 2012-13 and 2013-14 are dated 17.07.2017 and assessment orders for the said years are dated 12.07.2017. Subsequently the assessee opted Amnesty Scheme 2019 and settled all arrears related to Tax. Interest and Penalty are Waived. Assessee paid Rs.96,805/- vide chalan No.KL009802664 Dated 07.11.2019 and Rs.96,805/- vide chalan No.KL015807589 dated 0603.2020 and Rs.96,805/- vide chalan No.kl016151046 dated 13.03.2020 and Paid Rs.2,90,415/- vide chalan No.KL016471398 dated 20.03.2020 and Paid Rs.1,54,410/- vide chalan No.KL011689664201718 dtd 13.03.18 and Paid 1,68,960/- vide Chalan No.KL000049413201819M dtd 04.04.2018.

#### **2013-14**

Based on the audit objection, assessment was completed by the assessing authority on 07.11.2016 under Section 25A creating additional demand of Rs.2,40,000/- as Tax and Rs.96,000/- as interest and Rs.4,84,000/- as penalty.

		<p>Original assessment completed was set aside by Hon'ble High Court vide Judgement WP(C)No.19401 of 2017 dated 27.06.2017 with direction for Fresh disposal. Later assessment were completed afresh retaining the same Tax effect and Penalty. Penalty Orders for 2010-11,2011-12,2012-13 and 2013-14 are dated 17.07.2017 and assessment orders for the said years are dated 12.07.2017. Subsequently the assessee opted Amnesty Scheme 2019 and settled all arrears related to Tax. Interest and Penalty are Waived. Assessee paid Rs.96,805/-vide chalan No.KL009802664 Dated 07.11.2019 and Rs.96,805/-vide chalan No.KL015807589 dated 0603.2020 and Rs.96,805/- vide chalan NoKL016151046 dated 13.03.2020 and Paid Rs.2,90,415/- vide chalan No.KL016471398 dated 20.03.2020 and Paid Rs.1,54,410/- vide chalan No.KL011689664201718 dtd 13.03.18 and Paid 1,68,960/- vide Chalan No.KL000049413201819M dtd 04.04.2018.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.99</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>99. Ansal Granite Products (32151311627)</u></b> <b><u>2013-14</u></b> <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p>Assessment completed vide order No.32151311627/13-14 dated 28.08.2014 creating additional demand of Rs.5,30,409/- consisting of tax Rs.4,80,000/- Interest Rs.50,409/-. Assessee remitted the entire amount along with interest.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.100</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>100. Poovelil Aggregates (32151354254)</u></b> <b><u>2013-13 to 2013-14</u></b> <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2012-13</u></b> Short Levy reported as per C&amp; AG Report is Rs.3,07,200/- consisting of Tax Rs.2,40,000/- and interest Rs.67,200/-. Based on this, assessment was completed by the assessing authority on 20.12.2016 under Section 25 A creating additional demand of Rs.3,80,568/- consisting of Tax Rs.2,42,400/- and interest Rs.1,38,168/-. RR Requisitions were issued to Deputy Commissioner, Muvattupuzha for collection of this amount vide requisition No.193/E/2016-17 dated 20.02.2017. Aggrieved by the assessment order the assessee filed wp(c)No.7271 of 2017 and the Hon'ble Court vide judgement dated 25.09.2017 quashed the assessment order dated 20.12.2016. Legal opinion in WP© No.7271/2017 dated 10.10.2017 was received from Govt Pleader stating that there is no scope to file any appeal against the Judgement. A penalty of Rs.4,80,000/- being double the tax sought to be evaded was also imposed by the assessing authority vide order No.32151354254/12-13 dated 20.12.2016. RR Requisitions were issued to Deputy Commissioner, Muvattupuzha for collection of this amount vide requisition No.193/E/2016-17 dated 20.02.2017. Aggrieved by the Penalty order the assessee filed WP© No.36482/2017 which is pending for disposal. Statement of Facts in respect of the WP© was submitted to Deputy Commissioner (Law), Ernakulam on 25.11.2017.</p> <p><b><u>2013-14</u></b> Short Levy reported as per C&amp; AG Report is Rs.2,78,400/- consisting of Tax Rs.2,40,000/- and interest Rs.38,400/-. Based on this, assessment was completed by the assessing authority on 20.12.2016 under Section 25A creating additional demand of Rs.3,51,480/- consisting of Tax Rs.2,42,400/- and interest Rs.1,09,080/-. RR</p>

		<p>Requisitions were issued to Deputy Commissioner, Muvattupuzha for collection of this amount vide requisition No.194/E/2016-17 dated 20.02.2017. Aggrieved by the assessment order the assessee filed wp(c)No.7271 of 2017 and the Hon'ble Court vide judgement dated 25.09.2017 quashed the assessment order dated 20.12.2016. Legal opinion in WP©No.7271/2017 dated 10.10.2017 was received from Govt Pleader stating that there is no scope to file any appeal against the Judgement. A penalty of Rs.4,80,000/- being double the tax sought to be evaded was also imposed on the assessee vide this office proceedings No.32151354254/13-14 dated 20.12.2016. RR Requisitions were issued from to Deputy Commissioner, Muvattupuzha for collection of this amount vide requisition No.194/E/2016-17 dated 20.02.2017. Aggrieved by the Penalty order the assessee filed WP© No.36482/2017 which is pending for disposal. Statement of Facts in respect of the WP© was submitted to Deputy Commissioner (Law), Ernakulam on 25.11.2017.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.101</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>101. AKP Granites (32151357933)</u></b> <b><u>2013-14</u></b> <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p>On the basis of audit objection, the assessing authority issued notice to the dealer and further reply will be submitted soon.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.102	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>102. Quality Stone Products (32151346503)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 02.02.2016 under Section 25A creating additional demand of Rs.2,27,000/- as Tax and Rs.3,86,000/- as interest. Subsequently dealer opted Amnesty scheme and paid Rs.90,900/- on 27.07.2020 vide Chalan No.KL005528808202021E .</p> <p><b><u>2010-11</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 02.02.2016 under Section 25A creating additional demand of Rs.2,12,000/- as Tax and Rs.3,35,000/- as interest. Dealer paid Rs.41,600/- vide chalan no.KL009100808201718 and opted Amnesty for the balance amount and paid Rs.66,520/- on 27.07.2020 vide Chalan No. KL005528808202021E.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 02.02.2016 under Section 25A creating additional demand of Rs.4,24,000/- as Tax and Rs.6,19,000/- as interest. Dealer paid Rs.83,200/- vide chalan no. KL009100958201718 dated 22.12.2017. Subsequently opted Amnesty for the balance and paid 40% Rs.1,33,440/- on 27.07.2020 vide Chalan No.KL005528808202021E.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, assessment was completed by the assessing authority on 02.02.2016 under Section 25A creating additional demand of Rs.4,80,000/- as Tax and Rs.6,43,000/- as interest. Dealer paid Rs.96,000/- vide chalan no.KL009101087201718 and opted Amnesty for the balance and paid 40% Rs.1,53,600/- on 27.07.2020 vide Chalan No.KL005528808202021E.</p>



		<p><b><u>2013-14</u></b></p> <p>Based on the audit objection, assessment was completed by the assessing authority on 02.02.2016 under Section 25A creating additional demand of Rs.4,80,000/- as Tax and Rs.5,86,000/- as interest. Dealer paid Rs.96,000/- vide chalan no. KL009101222201718 and opted Amnesty for the balance and paid 40% Rs.1,53,600/- on 27.07.2020 vide Chalan No.KL005528808202021E.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.103	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>103. Punnekottayil Granites (32151562299)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, Kothamangalam</u></b></p> <p><b><u>2009-10</u></b>  Assessment was completed on 02.11.2016 creating additional demand of Rs.75,000/-(Tax) and Rs.48,750/-(Interest). The dealer filed appeal against this order, as per KVATA 4145/16 in office of the the Deputy Commissioner Appeals-II, Ernakulam and the same was withdrawn on 05.04.2022 for opting Amnesty scheme. The arrear amount settled under amnesty scheme paid Rs. 45,000/-(60% of the Tax amount due).</p> <p><b><u>2010-11</u></b>  Assessment was completed on 01.06.2017 creating additional demand of Rs.2,10,000/-(Tax) and Rs.1,51,200/-(Interest). The dealer filed appeal against this order and as per KVATA-2574/2017 dtd. 30.04.2018, the Asst. Commissioner (Appeals-II), allowed the appeal in favour of the dealer.</p> <p><b><u>2011-12</u></b>  Assessment was completed on 04.11.2016 creating additional demand of Rs.2,10,000/-(Tax) and Rs.1,13,400/-(Interest). The dealer filed appeal against this order and as per KVATA-4146/2016 dtd. 30.11.2017, the Asst. Commissioner(Appeals-II), allowed the appeal in favour of the dealer. As per TA(VAT) No.215/18 the State filed second appeal against the appellate order and the appeal was dismissed on 06.05.2022 in favour of the dealer.</p> <p><b><u>2012-13</u></b>  Assessment was completed on 02.11.2016 creating additional demand of Rs.2,40,000/-(Tax) and Rs.1,05,600/-(Interest). The dealer filed appeal against this order and as per KVATA-4147/2016 dtd. 30.11.2017, the Asst. Commissioner (Appeals-II), allowed the appeal</p>

		<p>in favour of the dealer. As per TA(VAT) No.216/18 the State filed second appeal against the appellate order and the appeal was dismissed on 06.05.2022 in favour of the dealer.</p> <p><b><u>2013-14</u></b></p> <p>Assessment was completed on 02.11.2016 creating additional demand of Rs.2,40,000/-(Tax) and Rs.72,000/-(Interest). The dealer filed appeal against this order and as per KVATA-4148/2014 dtd. 30.11.2017, the Asst. Commissioner (Appeals-II), allowed the appeal in favour of the dealer. As per TA (VAT) No.217/18 the State filed second appeal the appellate order and the appeal was dismissed on 06.05.2022 in favour of the dealer. Penalty orders for the above periods were also allowed by the Appellate Authority as per KVATA 450/18, 451/18,452/18,453/18,454/18.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.104	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>104. Periyar Associates (32151568239)</u></b>  <b><u>2012-13 to 2013-14</u></b>  <b><u>CTO, Kothamangalam</u></b></p> <p><b><u>2012-13</u></b>  Assessment was completed on 02.11.2016 creating additional demand of Rs.7,20,000/-(Tax) and Rs.3,16,800/-(Interest). The dealer filed appeal against the order and as per appellate order No. KVATA 131/17 dtd. 10.04.2019, the Deputy Commissioner(Appeals-V), Ernakulam allowed the appeal.</p> <p><b><u>2013-14</u></b>  Assessment was completed on 04.11.2016 creating additional demand of Rs.7,20,000/-(Tax) and Rs.2,16,000/- (Interest ). The dealer filed appeal against the order and as per appellate order No. KVATA 132/17 dtd. 08.05.2019, the Deputy Commissioner(Appeals-V), Ernakulam allowed the appeal. Penalty orders for the above periods were also allowed by the Appellate Authority as per KVATA 628/18 dtd. 31.01.2019 and 629/2018 dtd. 31.01.2019.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.105	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>105. PPM Granites (32151441014)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, Movattupuzha</u></b></p> <p>As per Audit objection, the assessing authority issued notice to the assessee to produce the following documents.</p> <ol style="list-style-type: none"> <li>1. The schedule of fixed assets with details of plant and machinery installed relating to the year 2009-10 to 2013-14.</li> <li>2. Copies of invoice of the crushers installed</li> <li>3. Details of drawing of electrical installations submitted to the KSEB in connection with the connected load.</li> <li>4. Details of drawings of electrical installations submitted to the electrical inspectorate.</li> <li>5. Name plates details of the motors that were installed at the premises of the assessee together with drawings duly certified by the KSEB authorities.</li> <li>6. Consent variation order received from the Kerala State Pollution Control Board.</li> </ol> <p>On receipt of the notice, the dealer produced copies of the above documents. The assessing authority verified the details and reported that there was no under reporting of machinery, since the assessee had reported the size and number of mechanized crushing machines as consent received from the Kerala State Pollution Control Board and compounded as such. Hence the objection may kindly be dropped.</p>

Para No.	Gist of the Case	Present Position			
2.6.1 Sl.No.106	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<b><u>106. United Granites (32151379994)</u></b> <b><u>2009-10 to 2011-12</u></b> <b><u>CTO, Special Circle, Perumbavoor</u></b>			
		<b><u>2009-10</u></b>			
		The assessee is a registered dealer on the rolls of Deputy Commissioner, Special Circle, Perumbavoor. Assessment for the period 2009-10 was completed by the assessing authority on 16-03-2016, creating an additional demand of Rs.3,47,440/- (Tax:Rs.2,02,000.00 + interest:Rs.1,45,440.00). Revenue Recovery proceedings issued to Deputy Commissioner of State Tax, Muvattupuzha. Collection details are as under.			
		<b>Sl. No.</b>	<b>Chalan No. &amp; Date</b>	<b>Amount in Rs.)</b>	<b>Remarks</b>
		1	000284/05-08-2016	1,04,232.00	Remitted 30% and under stay.
		2	001374/18.08.2016	17,372.00	Remitted 30% and under stay.
		<b><u>2010-11</u></b>			
		Assessment was completed by the assessing authority on 16-03-2016 creating additional demand of Rs.7,59,520.00 (Tax:Rs.4,74,700.00 + interest:Rs.2,84,820.00). The assessee opted Amnesty Scheme 2017-2018 and remitted the entire dues. The collection details are as under.			
		<b>Sl.No.</b>	<b>Chalan No. &amp; Date</b>	<b>Amount in Rs.)</b>	<b>Remarks</b>
		1	000285/05.07.2016	2,27,856.00	Remitted 30% and under stay
		2	1373/18.08.2016	37,976.00	Remitted 30% and under stay
		3	KL0082903732201 718M/01.12.2017	2,37,350.00	Opted Amnesty

			Scheme 2017-18 and remitted the arrears
<p><b><u>2011-12</u></b>  Assessment was completed by the assessing authority on 31-12-2016, creating additional demand of Rs.7,50,026.00  (Tax:4,74,700.00+interest:Rs.2,75,326.00). Opted Amnesty Scheme 2019-20 and remitted the entire arrears.  The collection details are as under.</p>			
Sl. No.	Chalan No. & Date	Amount in Rs.)	Remarks
1	KL0029324962019 20M/10.06.2019	80,000.00	Opted Amnesty Scheme 2019-20 and remitted the arrears
2	KL0045511202019 20M/10.07.2019	80,000.00	Opted Amnesty Scheme 2019-20 and remitted the arrears
3	KL0059530332019 20M/13.08.2019	80,000.00	Opted Amnesty Scheme 2019-20 and remitted the arrears
4	KL0071092332019 20M/16.09.2019	80,000.00	Opted Amnesty Scheme 2019-20 and remitted the arrears
5	KL0085666382019 20M/15.10.2019	80,000.00	Opted Amnesty Scheme

				2019-20 and remitted the arrears
		6	KL0100832862019 20M/13.11.2019	74,700.00
				Opted Amnesty Scheme 2019-20 and remitted the arrears



Para No.	Gist of the Case	Present Position									
2.6.1 Sl.No.107	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>107. Ozone Granites (32151303573)</u></b>  <b><u>2012-13</u></b>  <b><u>CTO, Special Circle, Perumbavoor</u></b></p> <p>The assessee is a registered dealer on the rolls of Deputy Commissioner, Special Circle, Perumbavoor. Assessment for the period 2012-13 was completed by the assessing authority on 31-10-2015, creating an additional demand of Rs.7,54,000.00(VAT:Rs.5,80,000.00+interest:Rs.1,74,000.00). Dealer remitted the arrears.</p> <table border="1"> <thead> <tr> <th>Sl.No.</th><th>Chalan No. &amp; Date</th><th>Amount in Rs.)</th></tr> </thead> <tbody> <tr> <td>1</td><td>2359/30.12.2015</td><td>5,80,000</td></tr> <tr> <td>2</td><td>442/07.02.2017</td><td>1,74,000</td></tr> </tbody> </table>	Sl.No.	Chalan No. & Date	Amount in Rs.)	1	2359/30.12.2015	5,80,000	2	442/07.02.2017	1,74,000
Sl.No.	Chalan No. & Date	Amount in Rs.)									
1	2359/30.12.2015	5,80,000									
2	442/07.02.2017	1,74,000									

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.108	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>108. Everone Properties India Pvt. Ltd. (32151589931)</u></b>  <b><u>2010-11 &amp; 2013-14</u></b>  <b><u>CTO, Special Circle, Perumbavoor</u></b></p> <p><b><u>2010-11</u></b>  The assessee is a registered dealer on the rolls of Deputy Commissioner, Special Circle, Perumbavoor. The audit observation was that the assessee did not disclosed 1 primary crusher during 2010-2011 installed along with 1 cone crusher and one secondary machine size II, which resulted short levy of 50% of aggregate tax due on the secondary machine. The short levy was worked out to Rs.8,20,000.00.  During local audit at Commercial Tax Office, Kothamangalam for assessment year 2010-2011, the said defect was pointed out and included in the LAR file No.SRA (HQ)1/11/11-12/1014. The Commercial Tax Officer, Kothamangalam had completed the escaped assessment as per order dated 07-06-2011 as pointed out in the audit and the amount paid vide chalan No.1243 dated 29-08-2011. The assessee preferred appeal and the Appellate authority modified the assessment directing to verify the claim of assessee. The Hon'ble Tribunal upheld this decision of the 1<sup>st</sup> appellate authority. So there is no irregularities as mentioned in the C&amp;A.G Report.</p> <p><b><u>2013-14</u></b>  The Audit viewed that the assessee under reported one cone crusher during the Assessment Year 2013-14 which had resulted in a short levy of tax amounting to Rs.27,00,000.00.  The view of the Audit is found not correct on the following reasons. As per consent to operate issued from Kerala Pollution Control Board on 08-12-2010 valid upto 30-06-2012, sanction was accorded for installation of one 180 HP Motor for 1 primary crusher, one 220 HP motor for 1 cone crusher and one 220 HP VSI. The said consent was duly renewed upto 30-06-2015. Further action on the shop inspection report (SIR) No.180608 dated, 16-01-</p>

		<p>2014 was dropped by the Intelligence Officer, Squad No.5 for the reason that there was only one cone crusher, one primary crusher and one VSI machine for 2013-14. The Intelligence Officer concluded that, out of two cone crusher mentioned in the audit enquiry and SIR, one is cone crusher and the other one is VSI machine ,which was wrongly recorded as cone crusher.</p> <p>From the above, there is no indication that one additional cone crusher was also used along with the existing Cone Crusher and Primary crusher. It may be seen that one additional cone crusher mentioned in the audit enquiry was actually VSI machine. Therefore there is no short levy as pointed out.</p> <p>The registration certificate issued by the Department of Mining &amp;Geology, Thiruvananthapuram for the period from 2013-14 was also furnished by the dealer evidencing the fact that one cone crusher was registered as per records of that department. So there is no short levy in this case.</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.109</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>109. Parakkal Rock Products (32151382312)</u></b> <b><u>2010-11 to 2013-14</u></b> <b><u>STO, Special Circle, Perumbavoor</u></b></p> <p><b><u>2010-11</u></b> Parackal Rock Products, Mazhuvannoor, an assessee engaged in the business of running a metal crusher unit, filed application u/s.8 of the KVAT Act 2003 opting compounding system for payment of tax for the year 2010-11. The assessee filed application incorporating machineries such as one Cone Crusher and one Primary Crusher. Permission was granted in Form 4DA determining the annual tax liability @ Rs.22,50,000.00 and the assessee remitted this amount. AG pointed out that the assessee has installed one Cone Crusher, one Primary Crusher and one Secondary Crusher Size-III and the tax liability will come to Rs.26,70,000.00 instead of that determined at Rs.22,50,000.00. This aspect was brought to the notice of the assessee by issuing notice u/s.25A dated 22-09-2015. In response to the notice, the assessee filed reply along with a copy of the communication received from KSPCB, Perumbavoor indicating that the assessee has installed one Cone Crusher and one Primary Crusher only. As per the SIR No.211861 dated 01-07-2013 of the Intelligence Squad No.VII, Ernakulam, the machineries installed in the unit were one Cone Crusher and one Primary Crusher only. From the above the assessing authority reported that the application filed by the assessee and the order issued by the assessing authority were correct in all aspects.</p> <p><b><u>2011-12</u></b> Parackal Rock Products, Mazhuvannoor, an assessee engaged in the business of running a metal crusher unit, filed application u/s.8 of the KVAT Act 2003 opting compounding system for payment of tax for the year 2011-12. The assessee filed application incorporating machineries such as one Cone Crusher and one Primary</p>

		<p>Crusher. Permission was granted in Form IE determining the annual tax liability @ Rs.22,50,000.00 and the assessee remitted this amount.</p> <p>AG pointed out that the assessee has installed one Cone Crusher, one Primary Crusher and one Secondary Crusher Size-III and the tax liability will come to Rs.26,70,000.00 instead of that determined at Rs.22,50,000.00. This aspect was brought to the notice of the assessee by issuing notice u/s.25A dated 22-09-2015. In response to the notice, the assessee filed reply along with a copy of the communication received from KSPCB, Perumbavoor indicating that the assessee has installed one Cone Crusher and one Primary Crusher only.</p> <p>As per the SIR No.211861 dated 01-07-2013 of the Intelligence Squad No.VII, Ernakulam, the machineries installed in the unit were one Cone Crusher and one Primary Crusher only. From the above the assessing authority reported that the application filed by the assessee and the order issued by the assessing authority were correct in all aspects.</p> <p><b><u>2012-13</u></b></p> <p>Parackal Rock Products, Mazhuvannoor, an assessee engaged in the business of running a metal crusher unit, filed application u/s.8 of the KVAT Act 2003 opting compounding system for payment of tax for the year 2012-13. The assessee filed application incorporating machineries such as one Cone Crusher and one Primary Crusher. Permission was granted in Form IE determining the annual tax liability @ Rs.27,00,000.00 and the assessee remitted this amount.</p> <p>The audit pointed out that the assessee has installed one Cone Crusher, one Primary Crusher and one Secondary Crusher Size-III and the tax liability will come to Rs.31,80,000.00 instead of that determined at Rs.27,00,000.00. This aspect was brought to the notice of the assessee by issuing notice u/s.25(A) dated 22-09-2015. In response to the notice, the assessee filed reply along with a copy of the communication received from KSPCB, Perumbavoor indicating that the assessee has installed one Cone Crusher and one Primary Crusher only.</p>
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		<p>As per the SIR No.211861 dated 01-07-2013 of the Intelligence Squad No.VII, Ernakulam, the machineries installed in the unit were one Cone Crusher and one Primary Crusher only.</p> <p>From the above the assessing authority reported that the application filed by the assessee and the order issued by the assessing authority were correct in all aspects.</p> <p><b><u>2013-14</u></b></p> <p>Parackal Rock Products, Mazhuvannoor, an assessee engaged in the business of running a metal crusher unit, filed application u/s.8 of the KVAT Act 2003 opting compounding system for payment of tax for the year 2013-14. The assessee filed application incorporating machineries such as one Cone Crusher and one Primary Crusher. Permission was granted in Form IE determining the annual tax liability @ Rs.27,00,000.00 and the assessee remitted this amount.</p> <p>The audit pointed out that the assessee has installed one Cone Crusher, one Primary Crusher and one Secondary Crusher Size-III and the tax liability will come to Rs.31,80,000.00 instead of that determined at Rs.27,00,000.00. This aspect was brought to the notice of the assessee by issuing notice u/s.25A dated 22-09-2015. In response to the notice, the assessee filed reply along with a copy of the communication received from KSPCB, Perumbavoor indicating that the assessee has installed one Cone Crusher and one Primary Crusher only.</p> <p>As per the SIR No.211861 dated 01-07-2013 of the Intelligence Squad No.VII, Ernakulam, the machineries installed in the unit were one Cone Crusher and one Primary Crusher only.</p> <p>From the above the assessing authority reported that the application filed by the assessee and the order issued by the assessing authority were correct in all aspects.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.110	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>110. Megha Granites (32151338515)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, Special Circle, Perumbavoor</u></b></p> <p><b><u>2009-10</u></b>  Megha Granites, Mazhuvannoor an assessee engaged in the business of running a metal crusher unit, filed application u/s 8 of the KVAT Act-2003 opting compounding system for payment of tax for the year 2009-10. The assessee filed application in form No.1D incorporating machineries such as one Cone crusher and one Primary Crusher. Permission was granted in Form 4DA determining the annual tax liability @ Rs.15,15,000.00 and the assessee remitted this amount. AG pointed out that the assessee has installed one Cone Crusher, one Primary Crusher and one Secondary Crusher Size -III and the tax liability will come to Rs.19,50,000.00 instead of that determined at Rs.15,15,000.00. This aspect was brought to the notice of the assessee by issuing notice U/s 25A dtd. 03.10.2015. In response to the notice, the assessee filed a copy of the certificate received from The Director of Mining &amp; Geology indicating that the assessee has installed one Cone Crusher only as secondary crushing machine. In the light of this certificate the assessing authority reported that the application filed by the assessee and the order issued by the assessing authority were correct in all aspects.</p> <p><b><u>2010-11</u></b>  Megha Granites, Mazhuvannoor an assessee engaged in the business of running a metal crusher unit, filed application u/s 8 of the KVAT Act-2003 opting compounding system for payment of tax for the year 2010-11. The assessee filed application in form No.1D incorporating machineries such as one Cone crusher and one Primary Crusher. Permission was granted in Form 4DA determining the annual tax liability @ Rs.22,72,500.00 and the assessee remitted this amount.</p>

	<p>AG pointed out that the assessee has installed one Cone Crusher, one Primary Crusher and one Secondary Crusher Size-III and the tax liability will come to Rs.26,70,000.00 instead of that determined at Rs.22,72,500.00. This aspect was brought to the notice of the assessee by issuing notice U/s 25A dtd. 03.10.2015. In response to the notice, the assessee filed a copy of the certificate received from The Director of Mining &amp; Geology indicating that the assessee has installed one Cone Crusher only as secondary crushing machine.</p> <p>In the light of this certificate the assessing authority reported that the application filed by the assessee and the order issued by the assessing authority were correct in all aspects.</p> <p><b><u>2011-12</u></b></p> <p>Megha Granites, Mazhuvannoor an assessee engaged in the business of running a metal crusher unit, filed application u/s 8 of the KVAT Act-2003 opting compounding system for payment of tax for the year 2011-12. The assessee filed application in form No.1B incorporating machineries such as one Cone crusher and one Primary Crusher. Permission was granted in Form 1E determining the annual tax liability @ Rs.22,72,500.00 and the assessee remitted this amount.</p> <p>AG pointed out that the assessee has installed one Cone Crusher , one Primary Crusher and one Secondary Crusher Size-III and the tax liability will come to Rs.26,70,000.00 instead of that determined at Rs.22,72,500.00. This aspect was brought to the notice of the assessee by issuing notice U/s 25(A) dtd. 03.10.2015. In response to the notice, the assessee filed a copy of the certificate received from The Director of Mining &amp; Geology indicating that the assessee has installed one Cone Crusher only as secondary crushing machine.</p> <p>In the light of this certificate the assessing authority reported that the application filed by the assessee and the order issued by the assessing authority were correct in all aspects.</p> <p><b><u>2012-13</u></b></p> <p>Megha Granites, Mazhuvannoor an assessee engaged in</p>
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		<p>the business of running a metal crusher unit, filed application u/s.8 of the KVAT Act-2003 opting compounding system for payment of tax for the year 2012-13. The assessee filed application in form No.1B incorporating machineries such as one Cone crusher and one Primary Crusher. Permission was granted in Form 1E determining the annual tax liability @ Rs.27,00,000.00 and the assessee remitted this amount.</p> <p>AG pointed out that the assessee has installed one Cone Crusher, one Primary Crusher and one Secondary Crusher Size -III and the tax liability will come to Rs.31,80,000.00 instead of that determined at Rs.27,00,000.00. This aspect was brought to the notice of the assessee by issuing notice U/s 25A dtd. 03.10.2015. In response to the notice, the assessee filed a copy of the certificate received from The Director of Mining &amp; Geology indicating that the assessee has installed one Cone Crusher only as secondary crushing machine.</p> <p>In the light of this certificate the assessing authority reported that the application filed by the assessee and the order issued by the assessing authority were correct in all aspects.</p> <p><b><u>2013-14</u></b></p> <p>Megha Granites, Mazhuvannoor an assessee engaged in the business of running a metal crusher unit, filed application u/s.8 of the KVAT Act-2003 opting compounding system for payment of tax for the year 2013-14. The assessee filed application in form No.1B incorporating machineries such as one Cone crusher and one Primary Crusher. Permission was granted in Form 1E determining the annual tax liability @ Rs.27,00,000.00 and the assessee remitted this amount.</p> <p>AG pointed out that the assessee has installed one Cone Crusher, one Primary Crusher and one Secondary Crusher Size -III and the tax liability will come to Rs.31,80,000.00 instead of that determined at Rs.27,00,000.00. This aspect was brought to the notice of the assessee by issuing notice U/s.25A dtd. 03.10.2015. In response to the notice, the assessee filed a copy of the certificate received from The Director of Mining &amp; Geology indicating that the assessee has installed one</p>
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		<p>Cone Crusher only as secondary crushing machine.</p> <p>In the light of this certificate the assessing authority reported that the application filed by the assessee and the order issued by the assessing authority were correct in all aspects.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.111	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>111. Sabari Granites (32060939984)</u></b>  <b><u>2010-11 to 2013-14</u></b>  <b><u>CTO, Adimali</u></b></p> <p><b><u>2010-11</u></b>  Based on the audit objection, the assessment in respect of the assessee for the year 2010-11 was completed as per order No.32060939984/2010-11 dated 29.09.2016 creating additional demand of Rs.3,39,360/- towards tax and interest. Aggrieved by the order the above filed appeal before the AC(A) Idukki at Kattappana and the Appellate Authority allowed the appeal and set aside the order vide order No. KVATA 83/2018 dtd. 31/03/2018. Against the order the department filed 2nd appeal before the appellate Tribunal addl bench Kottayam. The Appellate Authority dismissed the appeal filed by the state vide Order No. 198/2018 dtd. 20.12.2013. Subsequently the scope for filing OT Revision was also proposed but the learned govt pleader given the legal opinion as there is no scope for filing OT Revision against the order of the Tribunal.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, the assessment in respect of the assessee for the year 2011-12 was completed as per order No.32060939984/2011-12 dated 29.09.2016 creating additional demand of Rs.3,13,908/- towards tax and interest. Aggrieved by the order the above filed appeal before the AC(A) Idukki at Kattappana and the Appellate Authority allowed the appeal and set aside the order vide order No. KVATA 84/2018 dtd. 31/03/2018. Against the order the department filed 2nd appeal before the appellate Tribunal addl bench Kottayam. The Appellate Authority dismissed the appeal filed by the state vide Order No.199/2018 dtd. 20.12.2013. Subsequently the scope for filing OT Revision was also proposed but the learned govt pleader given the legal opinion as there is no scope for filing OT Revision against the order of the Tribunal.</p>

		<p><b><u>2012-13</u></b></p> <p>Based on the audit objection, the assessment in respect of the assessee for the year 2012-13 was completed as per order No.32060939984/2012-13 dated 29.09.2016 creating additional demand of Rs.3,26,400/- towards tax and interest. Aggrieved by the order the above filed appeal before the AC(A) Idukki at Kattappana and the Appellate Authority allowed the appeal and set aside the order vide order No. KVATA 85/2018 dtd. 31/03/2018. Against the order the department filed 2nd appeal before the appellate Tribunal addl bench Kottayam. The Appellate Authority dismissed the appeal filed by the state vide Order No.200/2018 dtd. 20.12.2013. Subsequently the scope for filing OT Revision was also proposed but the learned govt pleader given the legal opinion as there is no scope for filing OT Revision against the order of the Tribunal.</p> <p><b><u>2013-14</u></b></p> <p>Based on the audit objection, the assessment in respect of the assessee for the year 2013-14 was completed as per order No.32060939984/2013-14 dated 29.09.2016 creating additional demand of Rs.2,97,600/- towards tax and interest. Aggrieved by the order the above filed appeal before the AC(A) Idukki at Kattappana and the Appellate Authority allowed the appeal and set aside the order vide order No.KVATA 86/2018 dtd. 31/03/2018. Against the order the department filed 2<sup>nd</sup> appeal before the appellate Tribunal addl bench Kottayam. The Appellate Authority dismissed the appeal filed by the state vide Order No.201/2018 dtd. 20.12.2013. Subsequently the scope for filing OT Revision was also proposed but the learned govt pleader given the legal opinion as there is no scope for filing OT Revision against the order of the Tribunal.</p>
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Para No.	Gist of the Case	Present Position																																
2.6.1 Sl.No.112	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>112. Thattayath Metal Crusher (32061327974)</u></b> <b><u>2010-11 to 2013-14</u></b> <b><u>CTO, I Circle, Thodupuzha</u></b></p> <p>Based on the above audit objection, the assessment for the year 2010-11 to 2013-14 was completed and additional demand of Rs.14,59,646/- and this amount was advised for collection under IAC RR.</p> <table><tr><th rowspan="2">Assmt order No. &amp; Year</th><th rowspan="2">Assmt order Date</th><th colspan="3">Additional demand created</th></tr><tr><th>Tax</th><th>Interest</th><th>Total</th></tr><tr><td>3206132 7974/201 0-11</td><td>21.05.20 16</td><td>2,57,550/ -</td><td>1,33,926/ -</td><td>3,91,476/ -</td></tr><tr><td>3206132 7974/201 1-12</td><td>21.05.20 16</td><td>2,57,550/ -</td><td>1,03,020/ -</td><td>3,60,570/ -</td></tr><tr><td>3206132 7974/201 2-13</td><td>21.05.20 16</td><td>2,90,000/ -</td><td>81,200/-</td><td>3,71,200/ -</td></tr><tr><td>3206132 7974/201 3-14</td><td>21.05.20 16</td><td>2,90,000/ -</td><td>46,400/-</td><td>3,36,400/ -</td></tr></table> <p>The amount under RRC has been stayed by the Deputy Commissioner [Appeals] II, Kottayam as per order Nos. KVATA 677/16 dated 30.12.2016, 678/2016 dated 30.12.2016, 679/2016 dated 30.12.2016 and 680/2016 dated 30.12.2016 on the condition that the appellant shall pay 20% of the demand and furnish adequate security to the satisfaction of the assessing authority for the remaining balance within three weeks of receipt of the order. Accordingly, the dealer remitted an amount of Rs.2,19,020/- for the year 2009-10 to 2013-14. Penalty U/s 67(1) of the KVAT Act 2003 for the years 2010-11 to 2013-14 was also imposed upon the dealer as detailed below.</p>					Assmt order No. & Year	Assmt order Date	Additional demand created			Tax	Interest	Total	3206132 7974/201 0-11	21.05.20 16	2,57,550/ -	1,33,926/ -	3,91,476/ -	3206132 7974/201 1-12	21.05.20 16	2,57,550/ -	1,03,020/ -	3,60,570/ -	3206132 7974/201 2-13	21.05.20 16	2,90,000/ -	81,200/-	3,71,200/ -	3206132 7974/201 3-14	21.05.20 16	2,90,000/ -	46,400/-	3,36,400/ -
Assmt order No. & Year	Assmt order Date	Additional demand created																																
		Tax	Interest	Total																														
3206132 7974/201 0-11	21.05.20 16	2,57,550/ -	1,33,926/ -	3,91,476/ -																														
3206132 7974/201 1-12	21.05.20 16	2,57,550/ -	1,03,020/ -	3,60,570/ -																														
3206132 7974/201 2-13	21.05.20 16	2,90,000/ -	81,200/-	3,71,200/ -																														
3206132 7974/201 3-14	21.05.20 16	2,90,000/ -	46,400/-	3,36,400/ -																														

Sl. No.	Penalty order No. & Date	Year	Penalty Amount[Rs.]
1	32061327974/1 0.06.2019	2010-11	5,15,100/-
2	32061327974/1 0.06.2019	2011-12	5,15,100/-
3	32061327974/1 0.06.2019	2012-13	5,80,000/-
4	32061327974/1 0.06.2019	2013-14	5,80,000/-
<b>Total</b>			21,90,200/-

Subsequently, as per order no.KVATA 56/2018 dated 28.02.2018, KVATA 80/2018 dated 28.02.2018, KVATA 81/2018 dated 28.02.2018 and 82/2018 dated 28.02.2018 of the Assistant Commissioner(Appeals) Idukki at Kattappana dismissed the appeal filed by the dealer against assessment order for the year 2010-11 to 2013-14 dated 21.05.2016 of this office but the penalty imposed Rs.21,90,200/- has set aside by the Joint Commissioner(Appeals), Kottayam as per KVATA No.44/2020 to 47/2020 dated 27.07.2020. Against the order of the Assistant Commissioner(Appeals), the dealer approached the Hon'ble Tribunal and the Tribunal dismissed this appeal as withdrawn as per TA[VAT] No.156/2018, 157/2018, 158/2018, 159/2018 dated 24.08.2020. Since the dealer had opted Amnesty Scheme 2020 and requested to the Hon'ble Tribunal to withdraw the above TA [VAT] numbers.

But the dealer has not remitted the above dues with in the prescribed time limit and hence he has skip out the Amnesty Scheme 2020. Subsequently the dealer has again preferred fresh appeals before the Hon'ble Tribunal against the orders of the first Appellate Authority for the years 2010-11 to 2013-14 along with the delay condonation applications to cover the period from the date of receipt of the first appellate orders till the date of filing of the fresh appeals. But the Hon'ble Tribunal dismissed the delay condonation applications as also the appeals on the finding that the appeals themselves were not maintainable and a condonation of delay was therefore not

		<p>called for. It is aggrieved by the said orders of the Hon'ble Tribunal, the dealer filed OT.Rev.No.56 of 2022, 57 of 2022, 58 of 2022 and 60/2022 before the Hon'ble High Court of Kerala and the Hon'ble High Court of Kerala has also dismissed the said OT(Rev)No.56,57,58 &amp; 60 as per order dated 27.05.2022.</p> <p>Now the dealer has opted Amnesty Scheme 2022 on 13.07.2022 for the total arrears for the period from 2010-11 to 2013-14 and the dealer remitted 60% of the tax amount Rs.5,25,648/- as per Chalan No.Kl013414637202223E dated 11.08.2022 and waved the interest, penalty, 40% of tax amount under amnesty scheme 2022. Now there is no arrears are outstanding against the dealer as on this date.</p>
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Para No.	Gist of the Case	Present Position																																												
2.6.1 Sl.No.113	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p align="center"><b><u>113. Venad Granites (32061386608)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, I Circle, Thodupuzha</u></b></p> <p>The assessment in respect of M/s Venad Granites for the years 2009-10 to 2013-14 were completed u/s 25(A) on 19.07.2016 and also 21.01.2017 as detailed below:-</p> <table><tr><td></td><td colspan="3"><b>Total due as per order dated 19.07.2016[Tax + Interest]</b></td><td><b>Total due as per order dated 21.01.2017</b></td></tr><tr><td><b>Assessment Order No.</b></td><td><b>Tax</b></td><td><b>Interest</b></td><td><b>Total</b></td><td></td></tr><tr><td>3206138 6608/2009-10</td><td>2,77,750/-</td><td>1,99,980/-</td><td>4,77,730/-</td><td>2,91,520/-</td></tr><tr><td>3206138 6608/2010-11</td><td>2,57,550/-</td><td>1,54,530/-</td><td>4,12,080/-</td><td>2,58,170/-</td></tr><tr><td>3206138 6608/2011-12</td><td>2,57,550/-</td><td>1,23,624/-</td><td>3,81,174/-</td><td>2,41,176/-</td></tr><tr><td>3206138 6608/2012-13</td><td>2,90,000/-</td><td>1,04,400/-</td><td>3,94,400/-</td><td>2,53,600/-</td></tr><tr><td>3206138 6608/213-14</td><td>2,90,000/-</td><td>69,600/-</td><td>3,59,600/-</td><td>2,34,400/-</td></tr><tr><td><b>Total</b></td><td><b>13,72,850/-</b></td><td><b>6,52,134/-</b></td><td><b>20,24,984/-</b></td><td><b>12,78,866/-</b></td></tr></table> <p>As per the above order Numbers dated 19.07.2016 of the CTO First Circle Thodupuzha, the dealer filed appeal before the Assistant Commissioner (Appeals) Idukki at Kattappana. The Assistant Commissioner (Appeals) dismissed the appeal filed by the dealer vide order</p>						<b>Total due as per order dated 19.07.2016[Tax + Interest]</b>			<b>Total due as per order dated 21.01.2017</b>	<b>Assessment Order No.</b>	<b>Tax</b>	<b>Interest</b>	<b>Total</b>		3206138 6608/2009-10	2,77,750/-	1,99,980/-	4,77,730/-	2,91,520/-	3206138 6608/2010-11	2,57,550/-	1,54,530/-	4,12,080/-	2,58,170/-	3206138 6608/2011-12	2,57,550/-	1,23,624/-	3,81,174/-	2,41,176/-	3206138 6608/2012-13	2,90,000/-	1,04,400/-	3,94,400/-	2,53,600/-	3206138 6608/213-14	2,90,000/-	69,600/-	3,59,600/-	2,34,400/-	<b>Total</b>	<b>13,72,850/-</b>	<b>6,52,134/-</b>	<b>20,24,984/-</b>	<b>12,78,866/-</b>
	<b>Total due as per order dated 19.07.2016[Tax + Interest]</b>			<b>Total due as per order dated 21.01.2017</b>																																										
<b>Assessment Order No.</b>	<b>Tax</b>	<b>Interest</b>	<b>Total</b>																																											
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3206138 6608/213-14	2,90,000/-	69,600/-	3,59,600/-	2,34,400/-																																										
<b>Total</b>	<b>13,72,850/-</b>	<b>6,52,134/-</b>	<b>20,24,984/-</b>	<b>12,78,866/-</b>																																										



		<p>No.KVATA No.s 727/2016 to 731/2016 dated 30.07.2017 (2009-10 to 2013-14) and further the Appellate Tribunal, Additional Bench, Kottayam also dismissed the second appeal filed by the dealer vide Order No.TA(VAT) No.s 191/2017 to 195/2017 dated 25.04.2019. Penalty was also imposed as per order No.32061386608 dated 04.10.2017 of the office of the CTO first circle, Thodupuzha, for the years 2009-10 to 2013-14 for Rs.42,54,300/-. This demand was under IAC RR.</p> <p>Subsequently, the dealer opted Amnesty Scheme 2019-20 and remitted Rs.10,82,850/-, tax amount for the years 2009-10 to 2012-13 leaving a balance tax of Rs.2,90,000/-. Hence penalty Rs.42,54,300/- and interest Rs.6,52,134/- was waived under the condition of Amnesty Scheme 2019-20. The dealer opted Amnesty scheme 2020 for the balance tax amount Rs.2,90,000/- and paid Rs.1,16,000/- as per Challan No.KL010974503202021E. Against the order dated 21.01.2017 of CTO First Circle, Thodupuzha, the dealer filed appeal before the Assistant Commissioner (Appeals) and the Assistant Commissioner (Appeals) Idukki vide Order No.KVATA 75/17 to KVATA 79/17 (2009-10 to 2013-14) dated 30.07.2017 has directed to modify the assessment accepting the purchase invoice submitted by the appellant evidencing the purchase of primary crusher together with books of accounts, returns filed for the year with connected records to assure that the said invoice was properly declare by the parties concerned as per law. Accordingly the modification of assessment in respect of the dealer for the years 2009-10 to 2013-14 has been completed on 04-12-2019 as Nil demand .</p>
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Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.114</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>114. Kunnumpurathu Granites (32061475967)</u></b> <b><u>2012-13 &amp; 2013-14</u></b> <b><u>CTO, II Circle, Thodupuzha</u></b></p> <p><b><u>2012-13</u></b> Based on the audit objection, assessment in respect of the assessee for the year 2012-13 was completed as per order No.32061475967/2012-13 dated 28.07.2016 creating additional demand of Rs.4,03,100/- as tax and interest and Rs.5,80,000/- was also demanded towards penalty. Further proceedings has been stayed as per WPC) No.32640/2016(D), dated 18.10.2016 of the Hon'ble High Court of Kerala and is still pending. Requested to the O/o the Deputy Commissioner(Law), Ernakulam to take necessary arrangements for a speedy disposal of the case. The case is still pending before Hon'ble High court of Kerala.</p> <p><b><u>2013-14</u></b> Based on the audit objection, assessment in respect of the assessee for the year 2013-14 was completed as per order No.32061475967/2013-14 dated 28.07.2016 creating additional demand of Rs.3,68,300/- as tax and interest and Rs.5,80,000/- was also demanded towards penalty. Further proceedings has been stayed as per WPC) No.32640/2016(D), dated 18.10.2016 of the Hon'ble High Court of Kerala and is still pending. Requested to the O/o the Deputy Commissioner(Law), Ernakulam to take necessary arrangements for a speedy disposal of the case. The case is still pending before Hon'ble High court of Kerala.</p>

Para No.	Gist of the Case	Present Position				
2.6.1 Sl.No.115	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<b><u>115. Hi Range Metal Products (32060802205)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Nedumkandam</u></b>				
		M/s. Highrange Metal Crusher is an assessee on the rolls of the Commercial Tax Office, Nedumkandam. Based on the audit objection, assessment for the years 2009-10 to 2013-14 were completed u/s 25(A) as detailed below.				
		Assessm ent order No. & Year	Assessm ent order Date	Additio nal Demand Created [Tax + Interest]	Penalty	Total
		3206080 2205/20 09-10	25.01.20 16	4,30,664 /-	5,25,200 /-	9,55,864 /-
		3206080 2205/20 10-11	25.01.20 16	3,68,448 /-	4,84,800 /-	8,53,248 /-
		3206080 2205/20 11-12	25.01.20 16	1,97,960 /-	2,82,800 /-	4,80,760 /-
		3206080 2205/20 12-13	25.01.20 16	2,04,800 /-	3,20,000 /-	5,24,800 /-
		3206080 2205/20 13-14	25.01.20 16	2,78,400 /-	4,80,000 /-	7,58,400 /-
		<b>Total</b>		<b>14,80,27 2</b>	<b>20,92,80 0</b>	<b>35,73,07 2</b>
		Against the order, the dealer filed writ petition before the Honorable High Court of Kerala and as per WP(C) 10637/16 dated 15-03-2016, all further proceedings of the case are stayed and not disposed till date. Then the dealer opted Amnesty Scheme 2020 and paid full payable amount Rs.4,18,560/- in single installment as				

		per GRN KL005695959202021E dated 04.08.2020 for the years 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14. Interest and penalty fully waived on opting Amnesty.
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Para No.	Gist of the Case	Present Position																											
2.6.1 Sl.No.116	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/ Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>116. Madaparambil Granites (32061380984) 2013-14</u></b>  <b><u>CTO, Special Circle,Thodupuzha</u></b></p> <p>M/s. Madaprambil Granites is an assessee on the rolls of the Assistant Commissioner, Special Circle, Thodupuzha. On the receipt of the audit objection, the assessment was completed as per Order No.32061380984/2013-14 dated 26.08.2016 creating the additional demand of Rs. 11,61,000/- (Tax:Rs.9,00,000/- and Interest:Rs.2,61,000/-) . The dealer remitted an amount of Rs.1,80,000/- as per Chalan No.77 dated 22.12.2016. A penalty of Rs.10,000/- was imposed as per order No. 32061380984/2013-14 dated 26.08.2016. The dealer opted amnesty scheme 2019. The Remittance particulars are detailed below.</p> <table border="1"> <thead> <tr> <th>Sl No</th><th>Chalan No &amp; Date</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>1</td><td>77 dated 22.12.2016</td><td>Rs.1,80,000/-</td></tr> <tr> <td>2</td><td>KL008433192201920M dtd.11.10.2019</td><td>Rs.1,20,000/-</td></tr> <tr> <td>3</td><td>KL010901897201920M dtd.27.11.2019</td><td>Rs.1,20,000/-</td></tr> <tr> <td>4</td><td>KL011643230201920M dtd.11.12.2019</td><td>Rs.1,20,000/-</td></tr> <tr> <td>5</td><td>KL013449762201920M dtd. 20.01.2020</td><td>Rs.1,20,000/-</td></tr> <tr> <td>6</td><td>KL014919457201920M dtd. 18.02.2020</td><td>Rs.1,20,000/-</td></tr> <tr> <td>7</td><td>KL016399435201920M dtd.19.03.2020</td><td>Rs.1,20,000/-</td></tr> <tr> <td></td><td></td><td>Rs.9,00,000/-</td></tr> </tbody> </table> <p>Remission was given to the balance amount under amnesty scheme.</p>	Sl No	Chalan No & Date	Amount	1	77 dated 22.12.2016	Rs.1,80,000/-	2	KL008433192201920M dtd.11.10.2019	Rs.1,20,000/-	3	KL010901897201920M dtd.27.11.2019	Rs.1,20,000/-	4	KL011643230201920M dtd.11.12.2019	Rs.1,20,000/-	5	KL013449762201920M dtd. 20.01.2020	Rs.1,20,000/-	6	KL014919457201920M dtd. 18.02.2020	Rs.1,20,000/-	7	KL016399435201920M dtd.19.03.2020	Rs.1,20,000/-			Rs.9,00,000/-
Sl No	Chalan No & Date	Amount																											
1	77 dated 22.12.2016	Rs.1,80,000/-																											
2	KL008433192201920M dtd.11.10.2019	Rs.1,20,000/-																											
3	KL010901897201920M dtd.27.11.2019	Rs.1,20,000/-																											
4	KL011643230201920M dtd.11.12.2019	Rs.1,20,000/-																											
5	KL013449762201920M dtd. 20.01.2020	Rs.1,20,000/-																											
6	KL014919457201920M dtd. 18.02.2020	Rs.1,20,000/-																											
7	KL016399435201920M dtd.19.03.2020	Rs.1,20,000/-																											
		Rs.9,00,000/-																											

Para No.	Gist of the Case	Present Position			
2.6.1 Sl.No.117	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p align="center"><b><u>117. Thomson Granites (32061493754)</u></b>  <b><u>2011-12 to 2013-14</u></b>  <b><u>CTO, Special Circle, Thodupuzha</u></b></p> <p><b><u>2011-12</u></b>  Based on the audit objection, the assessment in respect of the assessee for the year 2011-12 was completed as per order No.32061493754/2011-12 dated 07.01.2016 demanding Rs.3,09,666/- (includes tax and interest). The assessee remitted the entire amount.  An amount of Rs.4,24,200/- was also imposed as penalty upon the assessee. The assessee remitted Rs.84,840/-. RRC issued for collection of the balance penalty due.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, the assessment in respect of the assessee for the year 2012-13 was completed as per order No. 32061493754/2012-13 dated 07.01.2016 demanding Rs.3,21,600/- (includes tax and interest). The assessee remitted the entire amount.  An amount of Rs.4,80,000/- was also imposed as penalty upon the assessee. The assessee remitted Rs.96,000/-. RRC issued for collection of the balance penalty due.</p> <p><b><u>2013-14</u></b>  Based on the audit objection, the assessment in respect of the assessee for the year 2013-14 was completed as per order No. 32061493754/2013-14 dated 07.01.2016 demanding Rs.8,78,400/- (includes tax and interest). The assessee remitted the entire amount.  An amount of Rs.14,40,000/- was also imposed as penalty upon the assessee. The assessee remitted Rs.2,88,000/-. RRC issued for collection of the balance penalty due.  Subsequently the dealer opted amnesty and remission has been given to penalty. Remittance particulars are given below.</p>			
		Sl.No.	Assessment Year	Collection( Tax & Interest)	Chalan No. And Date
		1	2011-12	Rs.41,184/-	112/29.04.2

					016
				Rs.41,775/-	228/02.06.2016
				Rs.43,550/-	241/18.08.2016
				Rs.44,140/-	008418/30.09.2016
				Rs.1,09,666/-	132/09.02.2016
		2	2012-13	Rs.40,888/-	
				Rs.44,890/-	115/29.04.2016
				Rs.45,535/-	233/03.06.2016
				Rs.47,470/-	28/18.08.2016
				Rs.48,115/-	008419/30.09.2016
		3	2013-14	Rs.1,03,600/-	129/09.02.2016
				Rs.44,568/-	
				Rs.1,19,844/-	110/29.04.2016
				Rs.1,21,566/-	237/03.06.2016
				Rs.1,26,570/-	29/18.08.2016
				Rs.1,28,450/-	008420/30.09.2016
				Rs.2,96,400/-	130/09.02.2016
				Rs.1,18,983/-	

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.118	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KS PCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p align="center"><b><u>118. St. Martin Granites (32061372603)</u></b>  <b><u>2009-10 to 2013-14</u></b>  <b><u>CTO, Special Circle, Thodupuzha</u></b></p> <p><b><u>2009-10</u></b>  The assessment in respect of the assessee for the year 2009-10 has already been completed as per order No.32061372603/2009-10 dated 23.03.2012 creating additional demand of Rs.6,21,150/- (Tax:Rs.5,05,000/- and interest:Rs.1,16,150/-). The assessee remitted the entire amount.</p> <p><b><u>2010-11</u></b>  Based on the audit objection, the assessment in respect of the assessee was completed as per order No.320613 72603/2010-11 dated 28.06.2016 creating additional demand of Rs.12,12,000/-. An amount of Rs.15,15,000/- was imposed as penalty also. The assessee opted amnesty scheme and remitted the tax due Rs.7,57,500/-. Remission was given for interest). The dealer opted amnesty scheme and remitted 30% of the penalty amount for the year 2010-11 in 4 installments @ Rs.1,13,625/-. Remission was given for 70% of the penalty amount.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, the assessment in respect of the assessee was completed as per order No.320613 72603/2011-12 dated 14.07.2016 creating additional demand of Rs.11,21,100/-. An amount of Rs.15,15,000/- was imposed as penalty also. The assessee remitted Rs.10,68,430/-. Out of the penalty of Rs.15,15,000/- the assessee remitted Rs.3,03,000/-. The Deputy Commissioner(Appeals) Kottayam, as per order No.RP No. 3/2017 dated 28.06.2018 remanded the penalty order. The dealer remitted the tax due and hence the interest due of Rs.69,249/- and penalty waived off under the Amnesty Scheme 2019.</p> <p><b><u>2012-13</u></b>  Based on the audit objection, the assessment in respect of the assessee was completed as per order No.320613 72603/2012-13 dated 14.07.2016 creating additional demand of Rs.12,24,000/-. An amount of Rs.18,00,000/- was imposed as penalty also. The assessee remitted Rs. 11,54,751/-. Out of the penalty of Rs.18,00,000/- dealer remitted Rs. 3,60,000/-. The Deputy Commissioner(Appeals) Kottayam, as</p>



per order No.RP No.4/2017 dated 28.06.2018 remanded the penalty order. The dealer remitted the tax due and hence the interest due of Rs.69,249/- and penalty waived off under the Amnesty Scheme 2019.

**2013-14**

Based on the audit objection, the assessment in respect of the assessee was completed as per order No.320613 72603/2013-14 dated 14.07.2016 creating additional demand of Rs.11,16,000/-. An amount of Rs.18,00,000/- was imposed as penalty also. The assessee remitted Rs.10,72,713/-.

Out of the penalty of Rs.18,00,000/- dealer remitted Rs.3,60,000/-. The Deputy Commissioner(Appeals) Kottayam, as per order No.RP No.5/2017 dated 28.06.2018 remanded the penalty order.

The dealer remitted the tax due and hence the interest due of Rs.43,287/- and penalty waived off under the Amnesty Scheme 2019.

Sl.No.	Assessment Year	Collection[ Tax & Interest)	Chalan No. And Date
1	2009-10	Rs.3,21,150 /-	515/29.03.2012
		Rs.3,00,000 /-	316/12.04.2012
2	2010-11	Rs.1,28,775 /-	8988764/29.12.2017
		Rs.1,28,775 /-	8057476/21.11.2017
		Rs.2,42,400 /-	202/22.09.2016
		Rs.1,28,775 /-	KL0064366 17201718M /23.10.2017
		Rs.1,28,775 /-	7018199/20.10.2017
3	2011-12	Rs.2,24,220 /-	216/22.09.2016
		Rs.2,10,306 /-	8788225/29.11.2018
		Rs.2,10,306 /-	9606237/21.12.2018
		Rs.2,10,306	799252/24.0

				/-	1.2019
				Rs.1,06,656	KL0124217
				/-	62201819M
					/01.03.2019
				Rs.1,06,656	KL0135329
				/-	60201819M
					/27.03.2019
	4	2012-13		Rs.2,44,800	206/22.09.2
				/-	016
				Rs.2,15,957	8787442/29.
				/-	11.2018
				Rs.2,15,957	9606411/21.
				/-	12.2018
				Rs.2,15,957	KL0101799
				/-	864201819
					M/
					24.01.2019
				Rs.1,31,040	KL0124219
				/-	54201819M
					/01.03.2019
				Rs.1,31,040	KL0135338
				/-	04201819M
					/27.03.2019
	5	2013-14		Rs.2,23,200	209/22.09.2
				/-	016
				Rs.1,92,931	8787778/29.
				/-	11.2018
				Rs.1,92,931	9606964/21.
				/-	12.2018
				Rs.1,92,931	KL0108001
				/-	29201819M
					/24.01.2019
				Rs.1,35,360	KL0124215
				/-	69201819M
					/01.03.2019
				Rs.1,35,360	KL0135336
				/-	24201819M
					/27.03.2019

Para No.	Gist of the Case	Present Position												
2.6.1 Sl.No.119	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>119. United Granites &amp; Metals (32420500613)</u></b> <b><u>2012-13 &amp; 2013-14</u></b> <b><u>CTO, Special Circle,Thodupuzha</u></b></p> <p><b><u>2012-13</u></b> Based on the audit objection, the assessment in respect of the assessee for the year 2012-13 was completed as per order No.32420500613/2012-13 dated 16.08.2016 demanding tax and interest Rs.12,69,000/-. The assessee remitted Rs.10,50,000/-. Balance amount under RR. An amount of Rs.18,00,000/- was also imposed as penalty as per order No.32420500613/2012-13 dated 31.10.2017. The demand has been stayed by Honourable High Court of Kerala as per WP(C) No. 762/2018 dated 29.06.2018.</p> <p><b><u>2013-14</u></b> Based on the audit objection, the assessment in respect of the assessee for the year 2013-14 was completed as per order No.32420500613/2013-14 dated 16.08.2016 demanding tax and interest Rs.11,61,000/-. The assessee remitted Rs.10,50,000/-. Balance amount under RR. An amount of Rs.18,00,000/- was also imposed as penalty as per order No.32420500613/2013-14 dated 31.10.2017. The demand has been stayed by Honourable High Court of Kerala as per WP(C) No.762/2018 dated 29.06.2018.</p> <p>The dealer opted Amnesty Scheme 2019-20. According to the scheme, there is, 100% waiver of interest and penalty by remitting tax in full. The dealer remitted the entire dues towards tax. Remittance particulars are given below.</p> <table><tr><th>Sl.No</th><th>Assessment Year</th><th>Collection[ Tax)</th><th>Chalan No. And date</th></tr><tr><td rowspan="3">1</td><td rowspan="3">2012-13</td><td>Rs.1,80,000 /-</td><td>2322150/31.03.2018</td></tr><tr><td>Rs.1,80,000 /-</td><td>8455387/04.12.2017</td></tr><tr><td>Rs.1,80,000</td><td>996061/21.0</td></tr></table>	Sl.No	Assessment Year	Collection[ Tax)	Chalan No. And date	1	2012-13	Rs.1,80,000 /-	2322150/31.03.2018	Rs.1,80,000 /-	8455387/04.12.2017	Rs.1,80,000	996061/21.0
Sl.No	Assessment Year	Collection[ Tax)	Chalan No. And date											
1	2012-13	Rs.1,80,000 /-	2322150/31.03.2018											
		Rs.1,80,000 /-	8455387/04.12.2017											
		Rs.1,80,000	996061/21.0											

				/-	2.2018
				Rs.1,80,000	672292/13.0
				/-	3.2018
		2	2013-14	Rs.1,80,000	134/03.12.2
				/-	016
				Rs.1,80,000	8455206/04.
				/-	12.2017
				Rs.1,80,000	995704/21.0
				/-	2.2018
				Rs.1,80,000	672129/13.0
				/-	3.2018
				Rs.1,80,000	2322367/31.
				/-	03.2018
				Rs.1,80,000	131/03.12.2
				/-	016

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.120	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>120. Charles Metal Industry (32061449081)</u></b>  <b><u>2010-11 to 2013-14</u></b>  <b><u>CTO, Special Circle, Thodupuzha</u></b></p> <p><b><u>2010-11</u></b>  Based on the audit objection, the assessment in respect of the assessee for the year 2010-11 was completed as per order No.32061449081/2010-11 dated 18.08.2016 and 30.01.2017 demanding Rs.1,03,59,065/- (Tax and Interest:Rs. 46,82,865/- and Penalty:Rs.56,76,200/-). The assessee remitted Rs.3,30,888/-.</p> <p>The assessee filed WP(C) against the penalty order and the Honourable High Court allowed the appeal and quashed the demand as per WP(C) No.16147/2017 dated 28.06.2017.</p> <p>Remanded the assessment by DC(Appeals), Kottayam as per Order No.KVATA no.824,825,826 &amp; 827/2016 dtd 06.02.2018. Appellate Authority directed to reconsider the case and the assessment completed after affording reasonable opportunity to the appellant for furnishing their accounts and connected records. As per the direction, the books of accounts of the dealer were called for verification and assessment completed fresh assessment completed as per the office of the second circle Thodupuzha, proceedings No.32061449081/10-11 dtd 30.08.2019 with NIL demand by adjusting tax paid for the year 11-12.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, the assessment in respect of the assessee for the year 2011-12 was completed as per order No.32061449081/2011-12 dated 18.08.2016 and 30.01.2017 demanding Rs.95,19,351/-(Tax and Interest:Rs. 41,25,951/- and Penalty:Rs.53,93,400/-). The assessee remitted Rs.3,30,888/-.</p> <p>The assessee filed WP(C) against the penalty order and the Honourable High Court allowed the appeal and</p>

		<p>quashed the demand as per WP(C) No.16147/2017 dated 28.06.2017.</p> <p>Remanded the assessment by DC(Appeals)Kottayam as per Order No.KVATA no.825/2016(2011-12) dtd 06.02.2018 . Appellate Authority directed to reconsider the case and the assessment completed after affording reasonable opportunity to the appellant for furnishing their accounts and connected records. As per the direction, the books of accounts of the dealer were called for verification and fresh assessment completed as per this office proceedings No.32061449081/11-12 dtd 30.08.2019 with NIL demand by adjusting tax paid for the year 2012-13.</p> <p><b><u>2012-13</u></b></p> <p>Based on the audit objection, the assessment in respect of the assessee for the year 2012-13 was completed as per order No.32061449081/2012-13 dated 18.08.2016 and 25.01.2017 demanding Rs.1,08,43,800/-(Tax and Interest:Rs. 44,83,800/- and Penalty:Rs.63,60,000/-). The assessee remitted Rs.8,96,760/-.</p> <p>The assessee filed WP(C) against the penalty order and the Honourable High Court allowed the appeal and quashed the demand as per WP(C) No.16147/2017 dated 28.06.2017.</p> <p>Remanded the assessment by DC(Appeals)Kottayam as per Order No.KVATA no.826/2016(2012-13) dtd 06.02.2018. Fresh assessment completed as per order No.32061449081/12-13 dtd 28.09.2020 with additional demand created Tax Rs. 26,30,634/- interest Rs. 10,09,270/- and Penalty Rs.52,61,268/- . The dealer filed 2<sup>nd</sup> appeal. Penalty set aside by JC(Appeals), Kottayam as per order No. KVATA – IDK- 01/2022 dtd 14.02.22 with permission to the Assessing Authority to restore or modify the Penalty order based on the ensuing decision of the Hon'ble Tribunal in the appeal filed by the dealer. The case is stayed by Hon'ble Tribunal as per TA(VAT) Nos 01/2022 &amp; 02/2022 dtd 08.06.23.</p> <p><b><u>2013-14</u></b></p> <p>Based on the audit objection, the assessment in respect of</p>
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	<p>the assessee for the year 2013-14 was completed as per order No.32061449081/2013-14 dated 18.08.2016 and 30.01.2017 demanding Rs.1,04,62,200/- (Tax and Interest:Rs. 41,02,200/- and Penalty:Rs.63,60,000/-). The assessee remitted Rs.8,20,440/-.</p> <p>The assessee filed WP(C) against the penalty order and the Honourable High Court allowed the appeal and quashed the demand as per WP(C) No.16147/2017 dated 28.06.2017.</p> <p>Remanded the assessment by DC(Appeals)Kottayam as per Order No.KVATA No.827/2016(2013-14) dtd 06.02.2018. Fresh assessment completed as per this office proceedings No.32061449081/13-14 dtd 28.09.2020 with additional demand created Tax Rs . 29,63,586/- interest Rs.12,44,706/- and Penalty Rs. 59,27,172/-. The dealer filed 2<sup>nd</sup> appeal. Penalty set aside by JC(Appeals), Kottayam as per order No. KVATA – IDK- 02/2022 dtd 14.02.22 with permission to the Assessing Authority to restore or modify the Penalty order based on the ensuing decision of the Hon'ble Tribunal in the appeal filed by the dealer. The case is stayed by Hon'ble Tribunal as per TA(VAT) Nos 01/2022 &amp; 02/2022 dtd 08.06.23.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.121	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>121. CMJ Granites (32060658543)</u></b>  <b><u>2010-11 to 2013-14</u></b>  <b><u>IAC, Idukki at Kattapana</u></b></p> <p><b><u>2010-11</u></b>  Based on the audit objection, the assessment for the year 2010-11 was completed as per Order No.320606 58543/2010-11 dated 04.01.2016 demanding Rs.7,57,500/- towards tax and Rs.4,24,200/- as interest. The assessee opted amnesty scheme during the year 2019-20 and remitted Rs.12,53,602/- as follows.  The dealer opted "Amnesty Scheme 2019-20 "on 27-07-2019. As per the circular 3/2019 No CT/42/2019-C1 Dated 01/04/2019 the Assessee who opt for the scheme need only to pay the principal amount in full entire interest and penalty shall be waived. The assessee remitted as per chalan no.196 dated 23-03-2016 Rs.2,31,000/-, Chalan no 121 dated 23-06-2016 Rs.2,31,000/-, Chalan No.23 dated 23-05-2016, Rs.2,31,000/- Chalan No.49 dated 22-04-2016 Rs.2,31,000/-, chalan No.KL00 4853933201617M Rs.2,57,700/-and Rs.71,902/- as per Chalan No. KL011738300201718M dtd.29.03.2018.</p> <p><b><u>2011-12</u></b>  Based on the audit objection, the assessment for the year 2011-12 was completed as per Order No.320606 58543/2011-12 dated 04.01.2016 demanding Rs. 7,57,500/- towards tax and Rs.3,33,300/- as interest. The assessee remitted Rs.11,85,890/- as follows.  The dealer opted "Amnesty Scheme 2019-20 "on 27-07-2019. As per the circular 3/2019 No CT/42/2019-C1 Dated 01/04/2019 the Assessee who opt for the scheme need only to pay the principal amount in full entire interest and penalty shall be waived. The dealer remitted as per chalan no.41 dated 21-07-2016 Rs.2,31,000/- Chalan No.101 dated 20-09-2016 Rs.2,31,000/- chalan No.122 dated 20-07-2016 Rs.2,31,000/-, Chalan No. KL005922852201617M Rs.2,31,000/- and Rs.2,61,890/-</p>



as per Chalan No. KL009597641201718M Dated 11.01.2018.

**2012-13**

Based on the audit objection, the assessment for the year 2012-13 was completed as per Order No. 320606 58543/2012-13 dated 04.01.2016 demanding Rs.9,00,000/- towards tax and Rs.2,88,000/- as interest. The assessee remitted Rs.13,41,133/-.

The dealer opted "Amnesty Scheme 2019-20" on 27-07-2019. As per the circular 3/2019 No CT/42/2019-C1 Dated 01/04/2019 the Assessee who opt for the scheme need only to pay the principal amount in full entire interest and penalty shall be waived. The dealer remitted as per chalan No.66 dated 21-10-2016 Rs.2,31,000/- chalan No.20 dated 24-11-2016 Rs.2,31,000/- chalan No.KL004573562016M Rs.2,31,000/- Chalan No.KL003177637201718M Rs.2,31,000/-, KL005437378201718M Rs.2.31,000 and Rs.1,86,133/- as per Chalan No. KL008508316201718M dtd.07.12.2017. The Honourable High Court of Kerala as per WP(C) No. 7134/2017 dated 31.07.2017 extended the period of stay on the collection of penalty amount.

**2013-14**

Based on the audit objection, the assessment for the year 2013-14 was completed as per Order No.320606 58543/2013-14 dated 31.05.2016 demanding Rs.9,00,000/- towards tax and Rs.2,34,000/- as interest. The remittance details is under.

The dealer opted "Amnesty Scheme 2019-20" on 27-07-2019. As per the circular 3/2019 No CT/42/2019-C1 Dated 01/04/2019 the Assessee who opt for the scheme need only to pay the principal amount in full entire interest and penalty shall be waived. The dealer remitted as per chalan No.209 dated 30-06-2016 Rs.2,00,000/- Chalan No.145 dated 30-07-2016 Rs.2,00,000/- chalan No.82 dated 31-09-2016 Rs.2,00,000/- chalan No.159 dated 31-10-2015 Rs.1,98,000/- and Rs.1,78,437/- as per Chalan No.KL010591432201718M.

		<p>In the meantime, the penalty was imposed U/s 67 of the KVAT Act being double the amount of tax for the non disclosure of turnover. The assessee had paid the entire tax along with interest. The assessee challenged the penalty orders before the Hon'ble High Court of Kerala. The assessee has opted amnesty scheme during the year 2019-20 and the penalty waived.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.122	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>122. Five Star Stone Crusher and Hollow Bricks</u></b>  <b><u>(32121017482)</u></b>  <b><u>2011-12</u></b>  <b><u>CTO, Thaliparamba</u></b></p> <p>Regarding short levy of tax, assessment U/s.25(A) in respect of the dealer for the assessment year 2011-12 was completed vide order no.32120436047/2011-12 dtd.30.05.2019 additional demand created Rs.7,89,012/- (Tax:Rs.4,24,200/-, Interest:Rs.3,64,812/-). The dealer had opted Amnesty Scheme 2020 and paid the dues vide e-challan No.KL015021479202021 dtd.24.12.2020.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.123	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>123. MKN Bricks &amp; Blue Metals (P) Ltd.</u></b>  <b><u>(32011028111)</u></b>  <b><u>2013-14</u></b>  <b><u>CTO, Nedumangad</u></b></p> <p>The audit objection in respect of M/s.MKN Bricks and Blue metals (P) Ltd was that the assessee had opted payment of tax under section 8(b) of the KAT Act 2003 and declared that they had 1 primary crusher and two secondary crushers during 2013-14 and had paid tax on compounded rate for same but cross verification of the correctness if return filed by the assessee during 2013-14 with the secondary evidence available with the Kerala State Pollution control Board and Department of Mining and Geology it was found that the assessee had 1 primary crusher and 2 cone secondary crushers. The assessee had under reported the capacity of machines resulting in short levy of tax and interest to Rs.31,05,000/-(Tax:Rs. 27,00,000/- +Interest:Rs. 4,05,000/-) and liable for penalty under section 67(1) of the Act Rs.70,29,600/- during 2013-14.</p> <p>In the light of above notice dated 16.07.2015 was served under section 25 of the KVAT Act to the assessee proposing to complete the assessment under section 25 of the Act. The assessee had filed reply objecting the proposal to complete the assessment as proposed and submitted the following contentions.</p> <p>1. The dealer had commenced commercial production of Aggregates(Construction agregats) w.e.f May 1, 2010 with one primary crusher and 2 secondary crushers. Since then they are opting for compounding under section 8(b)of the KVAT Act, 2003. Accordingly, they had opted for compounding U/s 8(b) for the financial year 2013-14 and paid the due taxes upon submission of the monthly returns. Since during the financial year 2013-14 there was no change in the strength of installed machinery, that is only one Primary crusher and Secondary Crushers, in aggregate they paid an amount of Rs.9,60,000/- as compounding tax U/s 8(b) of the Act. Therefore, they</p>

		<p>claim there is no shortfall in payment of compounding tax payments made for the financial year 2013-14.</p> <p>2. As part of expansion of business, they were planning to install one crusher and one VSI crusher at their plant at Irinchayam, Nedumangad. As per the dealer they had started the preliminary works in the year of 2011 and started obtaining quotations from the prospected suppliers of corn crushers as well as from the contractors for constructing civil structure and infrastructures for installing the Corn Crusher. The dealer had obtained integrated consent to establish expansion from the Kerala State Pollution Control Board as per Order #PCB/RO/TVPM/ICE dated 11.02.2012 which was valid upto 08.11.2014. Expecting the completion of construction of Civil structure as well as other infrastructures required for the Corn Crusher by the end of the year 2012-13, they had applied for granting permission to operate Corn Crusher with the Director of Mining &amp; Geology, Thiruvananthapuram, remitting the required 'Royalty ' in advance (Royalties for a particular year for which permission is sought , is to be paid in advance, that is on or before 31st Day of March of preceding year) for the financial year 2013-14, and in response they have granted registration (in Form S) vide #129/2013-14/RMCU/TVPM/2697/M3/2013 dated 03.03.2013 under Rule 48(R) of the Kerala Minor Mineral Concession Rules, 1967, permitting to operate the Corn crusher during the financial year 2013-14. For the Commencement of production they had to obtain permission from the KSEB for making available required power supply, approval from panchayath as well as clearance from Kerala State Pollution Control Board. Due to technical flow and delay in getting the loan from the bank and financial shortage, they could not complete the electrification as well as erection of sufficient effluent emission machineries/systems in full so as to comply with the KSEB's/Pollution Control Boards norms. Therefore, they could not commence the commercial production in the corn crusher installed during the financial year 2013-14. However, they had a trial run on corn crusher during the last quarter of the financial year 2013-14, which revealed some more technical problems</p>
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in its installation, which also further delayed the commencement of commercial production in the Corn Crusher.

3. Owing to the reasons as afore mentioned, they could not commence the commercial production in Corn Crusher during the financial year 2013-14. Subsequently, during beginning of the year 2014-15, they had a successful attempt to trial run and the plant was ready of operation but other clearances like pollution, Panchayath licence and KSEB approval were still pending. Considering their application, KSPCB as per consent #PCB/RO/TV/ICO/18/2014 dated 25.08.2014(valid up to 30.06.2017), granted permission to start commercial production in corn Crusher, the KSEB granted permission and executed HT agreement with them as per Agreement #KDA 7/14-15 dated 01.10.2014. The Anad Grama Panchayath has granted permission for increasing the electric connection power connection only on 21.08.2014 vide their certificate dated 21.08.2014. KSEB will increase the power load only after approval from the panchayath. So only after obtaining these permissions the dealer could commence the commercial production of Aggregates in the Corn Crusher.

Accordingly, they had started the production in full fledge during the month of October 2014.

4. However, as they were expecting commencement of production during the beginning of the year 2014-15, the dealer had opted for compounding for the machineries installed, viz Primary Crusher-1, Secondary Crusher-2, Corn Crusher-1, VSI-1

5. Further, in order to substantiate the period of commencement of operation of Corn Crusher, the dealer had furnished the below particulars of charges for electricity consumption they paid to the KSEB during the financial years 2013-14&2014-15.

Consumer No.13454700003793

Year	Bill Ref	Total Charges	Remarks
Apr 2013	2102811259 502 dtd 03.05.2013	183127	Installed machineries primary crusher 1,

			secondary Cusher - 2
May 2013	2102811264 467 dtd 04.06.2013	259739	-do-
Jun 2013	2102811271 134 dtd 03.07.2013	218702	-do-
July 2013	2102811279 225 dtd 07.08.2013	209451	do-
Aug 2013	2102811282 020 dtd 03.09.2013	245480	do-
Sep 2013	2102811286 003 dtd 04.10.2013	193260	do-
Oct 2013	2102811291 687 dtd 05.11.2013	251920	do-
Nov 2013	2102811294 978 dtd 03.12.2013	149857	do-
Dec 2013	2102811301 569 dtd 06.01.2014	157090	do-
Jan 2014	2102811307 257 dtd 07.02.2014	129334	do-
Feb 2014	2102811312 584 dtd 10.03.2014	140558	do-
Mar 2014	2102811315 118 dtd 03.04.2014	62136	-do-
Total for the year 2013- 14		2200654	
Apr 2014	2102811321 256 dtd 06.05.2014	229150	Installed machineries primary crusher 1,

				secondary Cusher - 2
May 2014	2102811326 653 dtd 06.06.2014	218751		
Jun 2014	2102811330 356 dtd 03.07.2014	174018		
July 2014	2102811838 370 dtd 06.08.2014	175949		
Aug 2014	2102811344 500 dtd 09.09.2014	199721		
Sep 2014	2102811346 237 dtd 04.10.2014	193203		
Oct 2014	2102811351 971 dtd 04.11.2014  2102811355 290 dtd 07.11.2014	262222   412455	Installed machineries primary crusher 1, secondary Cusher – 2  Corn crusher – 1, VSI-1	
Nov 2014	2102811360 588 dtd 06.12.2014	431408		
Dec 2014	2102811364 181 dtd 06.01.2015	443065		
Jan 2015	2102811368 235 dtd 04.02.2015	473002		
Feb 2014	2102811374 012 dtd 04.03.2015	502400		



		Mar 2014		556217	
		Total for the year 2014-12		4271561	
		From the above particulars, it is clear that from October 2014 onwards, there was a substantial increase in power consumption as the charges for October is almost 200% that of September 2014. As mentioned above, the dealer had started operating corn crusher and VSI crusher from October 2014 onwards which resulted in consumption of more power than earlier.			

Para No.	Gist of the Case	Present Position
<p><b>2.6.1</b> <b>Sl.No.124</b></p>	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB /Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>124. Travancore Blue Metal Industries (32011094428)</u></b> <b><u>2013-14</u></b> <b><u>CTO, Nedumangad</u></b></p> <p>The audit in respect of M/s.Travancore Blue Metal Industries is that the assessee had payment of tax under section 8(b) of the KVAT Act 2003 and declared that they had used two primary crushers and two cone crushers and paid tax on compounded rate during 2013-14. The audit cross checked the correctness of returns filed by the assessee during the year 2013-14 with reference to the secondary evidence available with the Kerala State Pollution Control Board, Kerala State Electrical Inspectorate and KSEB and it was found that the assessee had installed two prime crushing machines and four cone crushers installed for producing crushed granite metals. The assessee had under reported, two cone crushers installed for producing granite metals, resulting in short levy of tax amounting to Rs.62,64,000/- (Tax: Rs.54,00,000/-+Interest:Rs.8,64,000/- ) and liable for penalty under section 67(1) of the Act Rs.1,08,0,000/- during 2013-14.</p> <p>In the light of the above revised audit observation noticed dated 09.12.2015 under section 25(1) of the KVAT Act 2003 was issued to the assessee proposing to complete the assessment under section 25(1) of the KVAT Act 2003. The assessee had filed the reply dated 07.01.2016 objecting the proposal to complete the assessment contained in the notice dated 09.12.2015.</p> <p>The assessee had submitted that the Intelligence Officer, Squad no.VI, Commercial Taxes, Thiruvananthapuram had inspected the business place on 13.02.2014, which is during the assessment year 2013-14, and recorded the details of machinery installed were as follows.</p> <p>Jaw crusher - 1 Cone crusher Primary -1 Cone Crusher Secondary - 2 Auto Sand -1 Vertical Shaft Impactor -1</p> <p>It was also added that the application filed for compounding</p>

	<p>under section 8(b) is in conformity with the above shop inspection Report dated 13.02.2014. The assessee had submitted that the consent to establish is only a proposal to erect/establish machines. The consent to operate issued by the KSPCB is in conformity to the S.I.R dated 13.02.2014 and hence requested to drop the proposal to assess.</p> <p>The INTELLIGENCE Officer, Squad No.VI, Thiruvananthapuram had inspected the business place of the assessee on 13.02.2014 ie, during the financial year 2013-14 and prepared S.I.R No.229056. The machine found at the time of inspection was found agreeable with the returns filed. The consent to operate a per Order No.PCB/HO/TVPM/ICO/13-2013 dated 26.06.2013 valid upto 29.02.2016 is also in conformity with the returns filed. The Commercial Tax Officer, Nedumangad had visited the crusher unit of the assessee on 17.07.2013 and found the following metal crushers at the unit.</p> <p>Super primary -1 No. Primary -1No. Secondary Cone Crusher - 3 No.s</p> <p>The contention of the assessee was that one of the secondary cone crusher mentioned above is auto sand machine and only two secondary cone crushers were available in the unit. Rejecting the contention the assessment for the year was completed to the best judgement under section 25(1) of KVAT Act as per order dated 30.11.2013 fixing the number of cone crushers available were 3 nos and creating as additional demand Rs. 13,97,250/-. The dealer had paid the amount as per Chalan No.295 dated 27.03.2014. The appeal preferred against the assessment order dated 30.11.2013 was dismissed by the Deputy Commissioner(Appeals), Thiruvananthapuram vide appellate order dated 01.01.2015.</p> <p>Against the appellate order the dealer filed appeal before the STAT Addl. Bench, TVPM. The STAT Addl. Bench, Tvpm has remanded the assessment order as per KVATA(VAT) No.116/2015 dated 08.12.2021. The assessment in respect of the dealer for the year 2013-14 has been modified on 02.04.2022 with nil demand.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.125	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>125. Blue Star Industries (32011026164)</u></b>  <b><u>2009-10 and 2010-11</u></b>  <b><u>CTO, Nedumangad</u></b></p> <p>The audit enquiry was not sustainable and the same was reported to the Accountant General on 21.01.2016 by State Tax Officer, Nedumangad. The same is as follows. The audit is that Sri.V. Somasekharan Nair, Blue Star Industries, Cheriyaikonni, Nedumangad an assessee on the rolls of this office had filed returns in Form 10D during the year 2009-10 and 2010-11 declaring the category of machines installed as jaw size of machine installed during the years are 40.62 cm x 22.86cm and hence short payment of tax: Rs.6,36,300/- and interest: Rs.3,64,509/-(Total: Rs.10,00,809) and penalty under section 67(1) of the act Rs.12,72,600/- during the years. In the light of above a notice proposing to complete the assessment under section 25(1) of the KVAT Act for the year 209-10 and 2010-11 were issued vide this office notices dated 15.07.2015. The assessment had submitted that business place was inspected by the Commercial Tax Office, Nedumangad on 26.02.2009 and prepared shop Inspection Report CTk No. 07608 recording the physical stock and capacity of machinery installed. The Commercial Tax Officer had recorded that three crushing machines were working in the unit and size of two machines are 30.48 x 22.86 and the other one is of the size 30 x 15, which was working from October 2008 onwards. And also that the Intelligence Officer(IB), Commercial Tax, Thiruvananthapuram had visited the crusher unit of the assessee on 15.01.2009 and prepared mahasar and recorded the jaw size of secondary machinery installed as 30.48 and 22.86 and Primary crusher as 30 x 15. The Commercial Tax Officer, Nedumangad had also granted permission to pay compounded tax under section 8(b) of the KVAT Act as per order dated 28.02.2009. The commercial Tax Officer, Nedumangad and Intelligence Officer(IB), Thiruvananthapuram had inspected the business place of</p>

		<p>the assessee and recorded the size of two secondary machines installed were of the size 30x15. There is no evidence that new machineries had installed during the year. Hence there is no scope for re-opening the self assessment made by the assessee for the year 2009-10 &amp; 2010-11 and the audit is unsustainable.</p>
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Para No.	Gist of the Case	Present Position															
2.6.1 Sl.No.126	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>126. A.V. Crusher (32011082785)</u></b>  <b><u>2009-10, 2010-11, 2011-12 &amp; 2013-14</u></b>  <b><u>CTO, Nedumangad</u></b></p> <p>Assessment in respect of the dealer for the years 2009-10 to 2011-12 &amp; 2013-14 has been completed creating additional demand as detailed below:</p> <table border="1"> <thead> <tr> <th>Year</th><th>Tax, Cess &amp; Interest</th><th>Penalty</th></tr> </thead> <tbody> <tr> <td>2009-10</td><td>4,71,064/-</td><td>5,35,300/-</td></tr> <tr> <td>2010-11</td><td>4,14,100/-</td><td>5,05,000/-</td></tr> <tr> <td>2011-12</td><td>3,22,392/-</td><td>4,242,000/-</td></tr> <tr> <td>2013-14</td><td>3,07,200/-</td><td>4,80,000/-</td></tr> </tbody> </table> <p>Against the assessment order the dealer paid 20% of the Tax amount of Rs.3,06,840/- and filed appeal before the DC(Appeals), TVPM. The appellate authority directed to modify the assessment order. The assessment in respect of the dealer for the year 2009-10, 2010-11, 2011-12 &amp; 2012-13 have been modified on 11.12.2020 with demand of Rs.1,73,437/- for the year 2009-10, Rs.1,69,680/- for the year 2010-11, Rs.1,47,622/- for the year 2011-12 &amp; Rs.1,74,671/- for the year 2013-14. The dealer opted Amnesty Scheme 2022 and paid 60% of the tax amount Rs.3,99,246/- vide chalan No.KL010626107202223E dated 13.07.2022.</p>	Year	Tax, Cess & Interest	Penalty	2009-10	4,71,064/-	5,35,300/-	2010-11	4,14,100/-	5,05,000/-	2011-12	3,22,392/-	4,242,000/-	2013-14	3,07,200/-	4,80,000/-
Year	Tax, Cess & Interest	Penalty															
2009-10	4,71,064/-	5,35,300/-															
2010-11	4,14,100/-	5,05,000/-															
2011-12	3,22,392/-	4,242,000/-															
2013-14	3,07,200/-	4,80,000/-															

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.127	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>127. Aramam Rocks (32011001065)</u></b>  <b><u>2009-10 to 2010-11</u></b>  <b><u>CTO, Special Circle, Thiruvananthapuram</u></b></p> <p><b><u>2009-10</u></b>  In this case, assessment for the year 2009-10 was completed as per proceedings No.32011001605/2009-10 dated 01.08.2015 of the Assistant Commissioner I, Special Circle, Thiruvananthapuram. Additional demand was created for Rs.7,40,835/- (Rs.4,54,500/- as tax and Rs.2,86,335/- as interest). The assessee filed first appeal against the assessment order which was dismissed as per appellate order No.KVATA 429/15 dated 20.02.2016 of the Deputy Commissioner(Appeals), Thiruvananthapuram. Subsequently, the assessee opted Amnesty Scheme for 2017-18 and paid Rs.96,000/- as detailed below.  1.Rs.31,100/- as per chalan No.KL007556540201718M dated 14.11.2017.  2.Rs.39,900/- as per chalan No.KL008576910201718M dated 14.12.2017.</p> <p><b><u>2010-11</u></b>  In this case, assessment for the year 2010-11 was completed as per proceeding No.32011001605/2010-11 dated 01.08.2015 of the Assistant Commissioner I, Special Circle, Tiruvananthapuram. Additional demand was created for Rs.5,94,789/- (Rs.3,93,900/- as tax and Rs.2,00,889/- as interest). The assessee filed first appeal against the assessment order which was dismissed as per appellate order no.KVATA 429/15 dated 20.02.2016 of Deputy Commissioner(Appeals), Thiruvananthapuram. Subsequently the assessee opted Amnesty Scheme for 2017-18 and paid Rs.43,900/- as detailed below.  1.Rs.25,000/- as per Chalan No.KL006671380201718M dated 17.10.2017.  2.Rs.18,900/- as per chaln No.KL007556209201718M dated 14.11.2017.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.128	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>128. M.S. Building Products (32011183686)</u></b>  <b><u>2011-12 to 2013-14</u></b>  <b><u>CTO, Special Circle, Thiruvananthapuram</u></b></p> <p><b><u>2011-12</u></b>  In this case, assessment for the year 2011-12 was completed as per proceedings No.32011183686 dated 04.11.2016 of the Assistant Commissioner III, Special Circle, Thiruvananthapuram. Additional demand was created for Rs.24,22,680/-(Rs.15,53,000/- as tax and Rs.8,69,680/- as interest). Subsequently, the assessee filed WP© No.40815/2016 before the Hon'ble High Court of Kerala, Ernakulam seeking an order of stay against the operation of assessment order dated 04.11.2016 which was dismissed by the Hon'ble High Court of Kerala. Writ appeal number 293/17 was filed against the said order was dismissed vide judgement dated 13.02.2017. In the meanwhile, the dealer filed appeal before the Deputy Commissioner(Appeals), Thiruvananthapuram against the assessment order dtd, 04.11.2016 and the same was dismissed vide order dtd. 25.02.2019. Consequent on the above dismissal, the appellant assessee approached the Kerala Value Added Tax/Agricultural Income Tax&amp;Sales Tax Appellate Tribunal, Additional Bench, Thiruvananthapuram which has also been dismissed by the Appellate Tribunal. An amount of Rs.3,10,600/- being the 20% of tax of Rs.15,53,000/- was remitted by the assessee as per chalan Nos. KL000055586201718M dated 03.04.2017 for 11-12 as per the direction of appellate tribunal. RRC No.195/16-17 issued for the year 201-12,12-13 &amp; 13-14 to the Deputy Commissioner, Thiruvananthapuram.</p> <p><b><u>2012-13</u></b>  In this case, assessment for the year 2012-13 was completed as per proceedings No.32011183686 dated 04.11.2016 of the Assistant Commissioner III, Special Circle, Thiruvananthapuram. Additional demand was created for Rs.25,63,200/-(Rs.17,80,000/- as tax and</p>



		<p>Rs.7,83,200/- as interest).</p> <p>Subsequently, the assessee filed WP© No.40815/2016 before the Hon'ble High Court of Kerala, Ernakulam seeking an order of stay against the operation of assessment order dated 04.11.2016 which was dismissed by the Hon'ble High Court of Kerala. Writ appeal number 293/17 was filed against the said order was dismissed vide judgement dated 13.02.2017.</p> <p>In the meanwhile, the dealer filed appeal before the Deputy Commissioner(Appeals), Thiruvananthapuram against the assessment order dtd, 04.11.2016 and the same was dismissed vide order dtd. 25.02.2019.</p> <p>Consequent on the above dismissal, the appellant assessee approached the Kerala Value Added Tax/Agricultural Income Tax&amp;Sales Tax Appellate Tribunal, Additional Bench, Thiruvananthapuram which has also been dismissed by the Appellate Tribunal.</p> <p>An amount of Rs.3,56,000/- being the 20% of tax of Rs.17,80,000/- was remitted by the assessee as per chalan Nos. KL000055586201718M dated 03.04.2017 and KL006852478201718M date 13.10.2017 for 12-13 as per the direction of appellate tribunal.</p> <p>RRC No.195/16-17 issued for the year 201-12,12-13 &amp; 13-14 to the Deputy Commissioner, Thiruvananthapuram.</p> <p><b><u>2013-14</u></b></p> <p>In this case, assessment for the year 2013-14 was completed as per proceedings No.32011183686 dated 04.11.2016 of the Assistant Commissioner III, Special Circle, Thiruvananthapuram. Additional demand was created for Rs.23,49,600/-(Rs.17,80,000/- as tax and Rs.5,69,600/- as interest).</p> <p>Subsequently, the assessee filed WP© No.40815/2016 before the Hon'ble High Court of Kerala, Ernakulam seeking an order of stay against the operation of assessment order dated 04.11.2016 which was dismissed by the Hon'ble High Court of Kerala. Writ appeal number 293/17 was filed against the said order was dismissed vide judgement dated 13.02.2017.</p> <p>In the meanwhile, the dealer filed appeal before the Deputy Commissioner(Appeals), Thiruvananthapuram against the assessment order dtd, 04.11.2016 and the same was dismissed vide order dtd. 25.02.2019.</p>
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		<p>Consequent on the above dismissal, the appellant assessee approached the Kerala Value Added Tax/Agricultural Income Tax&amp;Sales Tax Appellate Tribunal, Additional Bench, Thiruvananthapuram which has also been dismissed by the Appellate Tribunal.</p> <p>An amount of Rs.3,56,000/- being the 20% of tax of Rs.17,80,000/- was remitted by the assessee as per chalan Nos. KL000055586201718M dated 03.04.2017 and KL006852478201718M date 13.10.2017 for 13-14 as per the direction of appellate tribunal.</p> <p>RRC No.195/16-17 issued for the year 201-12,12-13 &amp; 13-14 to the Deputy Commissioner, Thiruvananthapuram.</p>
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Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.129	In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>129. Kannanthanam &amp; Co. (32010910424)</u></b>  <b><u>2009-10 to 2010-11</u></b>  <b><u>CTO, Special Circle, Thiruvananthapuram</u></b></p> <p><b><u>2009-10</u></b>  In this case, assessment for the year 2009-10 was completed as per proceedings no.32010910424 dated 24.09.2016 of the Assistant Commissioner III, Special Circle, Thiruvananthapuram. Additional demand was created for Rs.32,95,386/-(Rs.18,61,800/- as tax and Rs.14,33,586/- as interest). Subsequently, the assessee filed WP© No.33969/2016 before the Hon'ble High Court of Kerala, Ernakulam in which stay was granted against the recovery of the tax demand. The status of the High Court of Kerala Website shows that the case is still pending. On enquiry with the office of the Joint Commissioner(Law), Ernakulam, it is known that the case was last listed for hearing on 21<sup>st</sup> November 2018. The Joint Commissioner(Law), Ernakulam has been requested to intimate the present stage of the writ petition.</p> <p><b><u>2010-11</u></b>  In this case, assessment for the year 2010-11 was completed as per proceedings no.32010910424 dated 24.09.2016 of the Assistant Commissioner III, Special Circle, Thiruvananthapuram. Additional demand was created for Rs.28,20,510/- (Rs.17,09,400/- as tax and Rs.11,11,110/- as interest). Subsequently, the assessee filed WP© No.33969/2016 before the Hon'ble High Court of Kerala, Ernakulam in which stay was granted against the recovery of the tax demand. The status of the High Court of Kerala Website shows that the case is still pending. On enquiry with the office of the Joint Commissioner(Law), Ernakulam, it is known that the case was last listed for hearing on 21<sup>st</sup> November 2018. The Joint Commissioner(Law), Ernakulam has been requested to intimate the present stage of the writ petition.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.130	<p>In 48 assessment circles, Audit test checked the assessment records of 512 assesseees of which 131 assesseees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPC B/Mining and Geology Department for ascertaining the correctness of details furnished by the assesseees before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.</p>	<p><b><u>130. Mount Valley Granite (32050821925)</u></b>  <b><u>2011-12 to 2013-14</u></b>  <b><u>CTO, Special Circle, Kottayam</u></b></p> <p><b><u>2011-12</u></b>  The assessment in respect of M/s. Mount Valley Granite India for the year 2011-12 was completed vide order No. 32050821925/11-12 dated 29.09.2016 creating additional demand of Rs.7,57,500/- towards tax and Rs.4,09,050/- towards interest.</p> <p><b><u>2012-13</u></b>  The assessment in respect of M/s. Mount Valley Granite India for the year 2012-13 was completed vide order No. 32050821925/12-13 dated 29.09.2016 creating additional demand of Rs.9,00,000/- towards tax and Rs.3,78,000/- towards interest. For the years 2011-12 and 2012-13, the dealer filed writ petition in WP(C) No.2682/2017, which is pending disposal.</p> <p><b><u>2013-14</u></b>  The assessment in respect of M/s. Mount Valley Granite India for the year 2013-14 was completed vide order No. 32050821925/11-12 dated 29.11.2016 creating additional demand of Rs.9,00,000/- towards tax and Rs.3,96,000/- towards interest.  First appeal filed for the year 2013-14 has been dismissed by the Deputy Commissioner(Appeals), Kottayam vide order No.KVATA 228/17 dated 20.02.2018. Aggrieved by the appellate order, the assessee filed writ petition WP(C) No. 33763/18 before the Honourable High Court. The Honourable High Court disposed the same by granting interim stay till the disposal of stay petition filed before the KVAT Appellate Tribunal, Kottayam in TA 307/2018.  The dealer opted Amnesty Scheme and remitted full arrear amount related for the year 2011-12, 2012-13 &amp; 2013-14. Hence the objection raised in the audit may kindly be dropped.</p>

Para No.	Gist of the Case	Present Position
2.6.1 Sl.No.131	In 48 assessment circles, Audit test checked the assessment records of 512 assessees of which 131 assessees who opted to pay tax under the compounding scheme had under-reported the size and/or the number of crushing machines. The assessing authorities had not gathered the information from local bodies/KSEBL/KSPCB/Mining and Geology Department for ascertaining the correctness of details furnished by the assessee before issuing the permission for compounding/ finalising the assessment. This resulted in short levy of the tax, interest and penalty of 68.78 crore.	<p><b><u>131. Kuthiravelil Rubble Industries, Marangoli, Kottayam (32051045002)</u></b></p> <p><b><u>2010-11</u></b></p> <p><b><u>CTO, Special Circle, Kottayam</u></b></p> <p>The assessment in respect of M/s.Kuthiravelil Rubble Industries for the year 2010-11 was completed vide order No. 320510 45002/2010-11 dated 27.09.2016 creating additional demand of Rs.4,24,200/- towards tax and Rs.2,79,972/- towards interest.</p> <p>The dealer had withdrawn the 2<sup>nd</sup> appeal filed before the Honourable Tribunal, Kottayam and opted amnesty and remitted Rs.1,69,680/- vide Challan no. KL0051670672020 under the scheme.</p>

## Para 2.6.2

Para No.	Gist of the Case	Present Position																									
2.6.2 Sl.No.1	In four assessment circles test checked, six assesseees neither opted for compounding nor filed return in Form No. 10 disclosing the turnover. Even though such information was available in the records submitted by the assessee the offices like local body, KSEBL, KSPCB and Mining and Geology Department along with the records submitted for registration, the assessing authority had not taken any action to gather such information as directed in the Departmental Circular and to utilise them in assessment/permission for compounding. This resulted in short levy of tax, interest and penalty of Rs. 14.44 crore.	<p><b><u>1. Best Granites (32081387545)</u></b> <b><u>2009-10</u></b> <b><u>CTO, Special Circle, Thrissur</u></b></p> <p>The pre-assessment notice under section 25A of the KVAT Act 2003 issued on 05.09.2016. The assessee filed a reply and produced all documents for verification. On verification it is found that they were compounding dealer and they got the CIN instead of TIN which continued upto 31.03.2010. From 01/04/2010 onwards their registration changed to TIN and allowed TIN 32081387545C. They had filed returns in Form No.10D with the no.32262580813 and were verified in KVATIS.</p> <p>As in the earlier years, in 2009-10 also, they selected the Compounding system for the payment of their metal crusher unit. They filed compounding application within the allowed time and got the permission on 29.06.2015 fixing the compounding tax Rs.24,74,500/-(including cess).</p> <p>In the year 2009-10, they were using the following type of machines(As per Form No.4DA).</p> <table><tr><td>Cone crusher</td><td>-</td><td>2 Nos.</td></tr><tr><td>Secondary Cone Crusher</td><td>-</td><td>1 No.(Jaw Size 50 cm * 30 cm)</td></tr><tr><td>Primary Crusher</td><td>-</td><td>3 Nos.</td></tr></table> <p>The same size and number of secondary and cone crushers was shown in the Certificated issued by the Mining and Geology Dept. Form S(No.30/RMU/TCR/3067/M3/2008 dated 27.03.2008) and their compounding amount also was fixed accordingly.</p> <p>The compounding permission was given as follows:</p> <table><tr><th>Machinery</th><th>Number</th><th>Rate</th><th>Amount</th></tr><tr><td>Secondary</td><td>1</td><td>3,00,000</td><td>3,00,000</td></tr><tr><td>Primary</td><td>3</td><td>1,50,000</td><td>1,50,000</td></tr><tr><td>Cone</td><td>2</td><td>10,00,000</td><td>20,00,000</td></tr></table>	Cone crusher	-	2 Nos.	Secondary Cone Crusher	-	1 No.(Jaw Size 50 cm * 30 cm)	Primary Crusher	-	3 Nos.	Machinery	Number	Rate	Amount	Secondary	1	3,00,000	3,00,000	Primary	3	1,50,000	1,50,000	Cone	2	10,00,000	20,00,000
Cone crusher	-	2 Nos.																									
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Primary	3	1,50,000	1,50,000																								
Cone	2	10,00,000	20,00,000																								

Crusher			
	<b>Total</b>		24,50,000

Later on finding certain mistakes in the compounding permission granted, revised proposal has been given to the dealer as below:

<b>Machinery</b>	<b>Number</b>	<b>Rate</b>	<b>Amount</b>
Secondary	1	3,00,000	3,00,000
Primary (50% aggregate of secondary machines) ie.(3,00,000 + 20,00,000)/2	3	-	11,50,000
Cone Crusher	2	10,00,000	20,00,000
	<b>Total</b>		34,50,000

The dealer paid the above amount including cess as detailed below:

April-June, 2009	6,18,625
July-September, 2009	6,18,625
October-December, 2009	8,71,125
January-March, 2010	8,71,125
Vide Challan No.129 dated 24.05.2010	5,05,000
<b>Total</b>	34,84,500

Hence, being a dealer permitted to pay tax under compounding scheme and filed returns in FORM No.10D, alternate assessment is not tenable.

Para No.	Gist of the Case	Present Position
2.6.2 Sl.No.2	In four assessment circles test checked, six assessees neither opted for compounding nor filed return in Form No. 10 disclosidng the turnover. Even though such information was available in the records submitted by the assessee the offices like local body, KSEBL, KSPCB and Mining and Geology Department along with the records submitted for registration, the assessing authority had not taken any action to gather such information as directed in the Departmental Circular and to utilise them in assessment/permission for compounding. This resulted in short levy of tax, interest and penalty of Rs. 14.44 crore.	<p><b><u>2. Valakkavu Granites (P) Ltd. (32080581808)</u></b>  <b><u>2009-10</u></b>  <b><u>CTO, Special Circle, Thrissur</u></b></p> <p>The assessment in respect of M/s. Valakkavu Granites for the year 2009-10 was completed vide order no.32080581808/2009-10 dated 13.10.2016 by considering the defect pointed out by the Accountant General by creating additional demand of Tax Rs.5,67,475/- and Interest Rs.4,59,655/-. The assessee opted Amnesty Scheme 2020 and fully paid as per Chalan No.KL005549539202021E dated 30.07.2020.</p>



Para No.	Gist of the Case	Present Position																										
2.6.2 Sl.No.3	In four assessment circles test checked, six assesseees neither opted for compounding nor filed return in Form No. 10 disclosing the turnover. Even though such information was available in the records submitted by the assessee the offices like local body, KSEBL, KSPCB and Mining and Geology Department along with the records submitted for registration, the assessing authority had not taken any action to gather such information as directed in the Departmental Circular and to utilise them in assessment/permission for compounding. This resulted in short levy of tax, interest and penalty of Rs. 14.44 crore.	<p><b><u>3. Thomson Granites (32080244523)</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Special Circle, Thrissur</u></b></p> <p>The assessment in respect of M/s. Thomson Granites for the years 2009-10 to 2013-14 were completed vide order Nos. 32080244523/2009-10 to 2013-14 dated 15.09.2015 by considering the defect pointed out by the Accountant General. The details of assessment are shown below:</p> <table><tr><th rowspan="2">Year</th><th colspan="2">Demand Created</th><th rowspan="2">Total</th></tr><tr><th>Tax</th><th>Interest</th></tr><tr><td>2009-10</td><td>12,54,884.00</td><td>8,28,223.00</td><td>20,83,107.00</td></tr><tr><td>2010-11</td><td>13,93,910.00</td><td>7,52,711.00</td><td>21,46,621.00</td></tr><tr><td>2011-12</td><td>14,44,416.00</td><td>6,06,655.00</td><td>20,51,071.00</td></tr><tr><td>2012-13</td><td>19,91,925.00</td><td>5,97,578.00</td><td>25,89,503.00</td></tr><tr><td>2013-14</td><td>21,63,647.00</td><td>3,89,456.00</td><td>25,53,103.00</td></tr></table> <p>Aggrieved by these orders the assessee filed WP(C) before the Hon'ble High Court of Kerala. Then Hon'ble High court of Kerala set aside these appeals vide order No.WP(c) 30723 of 2015 dt.02.8.2023 for fresh disposal . Accordingly the assessments for the years from 2009-10 to 2013-14 were completed vide orders No.32080244523/2009-10 to 2013-14 dt.24.11.2023 as a case of nil demand.</p>	Year	Demand Created		Total	Tax	Interest	2009-10	12,54,884.00	8,28,223.00	20,83,107.00	2010-11	13,93,910.00	7,52,711.00	21,46,621.00	2011-12	14,44,416.00	6,06,655.00	20,51,071.00	2012-13	19,91,925.00	5,97,578.00	25,89,503.00	2013-14	21,63,647.00	3,89,456.00	25,53,103.00
Year	Demand Created			Total																								
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2013-14	21,63,647.00	3,89,456.00	25,53,103.00																									

Para No.	Gist of the Case	Present Position
2.6.2 Sl.No.4	In four assessment circles test checked, six assessees neither opted for compounding nor filed return in Form No. 10 disclosidng the turnover. Even though such information was available in the records submitted by the assessee the offices like local body, KSEBL, KSPCB and Mining and Geology Department along with the records submitted for registration, the assessing authority had not taken any action to gather such information as directed in the Departmental Circular and to utilise them in assessment/permission for compounding. This resulted in short levy of tax, interest and penalty of Rs. 14.44 crore.	<p><b><u>4.Pawan Quarry &amp; Aggregates Pvt. Ltd.</u></b>  <b><u>(32151350507)</u></b>  <b><u>2010-11 &amp; 2011-12</u></b>  <b><u>CTO, II Circle, Perumbavoor</u></b></p> <p><b><u>2010-11</u></b>  Assessment was completed vide office proceedings No.32151350507/2010-11 dated 14.10.2022 creating additional demand of Rs.60,72,127/- consisting of Tax 25,26,053/-, interest Rs.35,20,813/- and cess Rs.25,261/-. Amount under RR.</p> <p><b><u>2011-12</u></b>  Assessment was completed vide office proceedings No.32151350507/2011-12 dated 14.10.2022 creating additional demand of Rs.1,95,03,520/- consisting of Tax: 85,44,432/-, interest: Rs.1,08,73,644/- and cess Rs.85,444/-. Amount under RR.</p>

Para No.	Gist of the Case	Present Position																								
2.6.2 Sl.No.5	In four assessment circles test checked, six assessees neither opted for compounding nor filed return in Form No. 10 disclosing the turnover. Even though such information was available in the records submitted by the assessee the offices like local body, KSEBL, KSPCB and Mining and Geology Department along with the records submitted for registration, the assessing authority had not taken any action to gather such information as directed in the Departmental Circular and to utilise them in assessment/permission for compounding. This resulted in short levy of tax, interest and penalty of Rs. 14.44 crore.	<p><b><u>5. Devamatha Rock Products (32151215362)</u></b>  <b><u>2013-14</u></b>  <b><u>CTO, I Circle, Perumbavoor</u></b></p> <p>The defect pointed out by AG was that, the assessee had disclosed a total sales turnover of Rs.8,24,96,697/- of which Rs.7,04,63,697/- related to the sale of granite metals and Rs.1,20,33,000/- related to sale "Right to Use" in the Profit &amp; Loss Account. Even though the assessee had filed return in Form 10, he did not disclose the turnover of 'Sales – Right to use'. The Accountant General directed to assess this turnover @ 5%.</p> <p>Accordingly the assessment was completed by the assessing authority on 18.05.2016 creating an additional demand of Rs.6,01,650/- along with interest Rs. 1,44,396/-. The assessee remitted entire amount as detailed below.</p> <table border="1"> <thead> <tr> <th>Chalan No.</th><th>Date</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>2874</td><td>30.06.2016</td><td>Rs.1,24,341.00</td></tr> <tr> <td>45</td><td>31.07.2016</td><td>Rs.1,24,341.00</td></tr> <tr> <td>193</td><td>30.08.2016</td><td>Rs.1,24,341.00</td></tr> <tr> <td>396</td><td>30.09.2016</td><td>Rs.1,24,341.00</td></tr> <tr> <td>2233</td><td>31.10.2016</td><td>Rs.1,24,341.00</td></tr> <tr> <td>346</td><td>30.11.2016</td><td>Rs.1,24,341.00</td></tr> <tr> <td colspan="2"><b>Total</b></td><td>Rs.7,46,046.00</td></tr> </tbody> </table>	Chalan No.	Date	Amount	2874	30.06.2016	Rs.1,24,341.00	45	31.07.2016	Rs.1,24,341.00	193	30.08.2016	Rs.1,24,341.00	396	30.09.2016	Rs.1,24,341.00	2233	31.10.2016	Rs.1,24,341.00	346	30.11.2016	Rs.1,24,341.00	<b>Total</b>		Rs.7,46,046.00
Chalan No.	Date	Amount																								
2874	30.06.2016	Rs.1,24,341.00																								
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346	30.11.2016	Rs.1,24,341.00																								
<b>Total</b>		Rs.7,46,046.00																								

Para No.	Gist of the Case	Present Position
<p><b>2.6.2</b> <b>Sl.No.6</b></p>	<p>In four assessment circles test checked, six assessees neither opted for compounding nor filed return in Form No. 10 disclosing the turnover. Even though such information was available in the records submitted by the assessee the offices like local body, KSEBL, KSPCB and Mining and Geology Department along with the records submitted for registration, the assessing authority had not taken any action to gather such information as directed in the Departmental Circular and to utilise them in assessment/permission for compounding. This resulted in short levy of tax, interest and penalty of Rs. 14.44 crore.</p>	<p><b><u>6. Parakkal Granites (32151515872)</u></b> <b><u>2012-13</u></b> <b><u>CTO, Kothamangalam</u></b></p> <p>The assessee is a registered dealer borne on the rolls of the State Tax Office, Kothamangalam. The Objection of AG was in respect of turnover escaped assessment due to non submission of returns. The dealer started business from 14.06.2010 and they have filed "NIL" monthly return for the year 2012-13. The dealer purchased machinery worth Rs. 3,72,00,158/- during the year 2011-12. It is clear that they might have started commercial production from April 2012 itself but not declared in the returns. But the auditor at the time of auditing declared an amount of Rs.91,36,521/- as revenue from operations. They have not filed annual return for the year 2012-13 which seems to be a purposeful evasion of tax since they filed annual return during the previous year 2011-12 and succeeding years. On the basis of the C&amp;AG report, the assessing authority issued notice to the dealer under section 25(A) of the KVAT Act, 2003 for the year 2012-13. The dealer filed writ petition as per WP(C) No.7167/2021 before the Hon'ble High Court of Kerala. Case is pending before the court. Assessment was completed on 19.10.2022 creating additional demand of Rs.12,33,431/-(Tax) and Rs.12,33,431/-(interest) for the year 2012-13.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.6.3</b> <b>Sl.No.1</b></p>	<p>Under Section 15C of the KVAT Act, any person who intends to establish an industrial unit may get himself registered under this section. No metal crushing unit can establish without the permission issued by the local body /KSEBL/KSPCB/Mining and Geology Department. Audit cross-checked the data collected from the KSPCB with the KVATIS and noticed that in four assessment offices, metal crushing units of four assessees were not registered under the KVAT Act. The assessing authority did not take any action under Rule 17A of the KVAT Rules to give compulsory registration to the assessees. As the turnovers of the dealers were not ascertainable, actual loss of revenue could not be worked out. At the compounded rate, non levy of tax worked out to 2.13 crore including interest and penalty.</p>	<p><b><u>1. M.S. Industries</u></b> <b><u>2011-12 to 2013-14</u></b> <b><u>CTO, Kottarakkara</u></b></p> <p><b><u>2011-12</u></b> The assessment for the year 2011-12 has already been completed u/s.25 of the KVAT Act 2003 on 22.08.2012 demanding tax Rs.12,60,000/-, Cess Rs.12,600/- and interest Rs.1,15,440/-. [Less compounded tax paid(M.S Metal Crusher) Rs.25,000/-, Less non compounded tax paid(M.S Industries) Rs.3,44,175/-, less cess paid Rs.3,692/-] Balance Tax Rs.8,90,825/-, Cess Rs.8,908/-, interest Rs.1,514/-. This amount recommended for Revenue Recovery. The dealer has remitted an amount of Rs.1,10,115/-(Rs.25,000/- as per chalan No.136/22.01.2013 and Rs.85,155/- as per chalan No.142/13.08.2023). Then the dealer opted amnesty scheme 2020 and paid 40% of Balance tax as per chalan KL013549480202021E dated:01.12.2020.</p> <p><b><u>2012-13</u></b> During the year 2012-13, the dealer has filed compounding application in form 1B separately for both the branches disclosing 3 Nos of Secondary jaw crushers and 1 no of primary jaw crusher in size](2 secondary and 1 primary for M.S. Industries and 1 Secondary for M.S metal Crusher) on 04.05.2012. On 21.06.2012 the dealer filed an application to cancel the compounding application that they have already filed and expressed his willingness to file return monthly and remit the tax due on schedule rate tax under section 6(1) of the KVAT Act, 2003. Accordingly the dealer filed return on monthly basis and remitted the tax due. The dealer reported the total turnover on the sales of metal chips for an amount of Rs.56,93,623/- and remitted the tax due of Rs.7,68,538.12 annually during the year end of 31.03.2013. Since the dealer has disclosed all the three secondary and one primary jaw crushers and remitted the tax of Rs.7,68,538/- on</p>

		<p>scheduled rate of tax and filed monthly return in form 10 promptly, the audit objection raised during the year 2012-13 is not sustainable.</p> <p><b><u>2013-14</u></b></p> <p>The dealer has opted for compounding under section 8(b) of the KVAT Act-2003 by filing compounding application in form No.IB disclosing 3 nos of secondary jaw crushers and 1 no. Primary jaw crusher all are in size-III and remitted the tax of Rs.14,40,000.00 promptly. Since no default in payment of tax during the year is noticed, the audit objection raised for the year 2013-14 is not sustainable. Since all the defects pointed out by the Audit wing for the year 2011-12 to 2013-14 in respect of M.S Industries, Ambalamkunnu are not sustainable as there is no revenue loss to the state exchequer in this regards.</p>
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Para No.	Gist of the Case	Present Position																																				
2.6.3 Sl.No.2	<p>Under Section 15C of the KVAT Act, any person who intends to establish an industrial unit may get himself registered under this section. No metal crushing unit can establish without the permission issued by the local body /KSEBL/KSPCB/Mining and Geology Department. Audit cross-checked the data collected from the KSPCB with the KVATIS and noticed that in four assessment offices, metal crushing units of four assessees were not registered under the KVAT Act. The assessing authority did not take any action under Rule 17A of the KVAT Rules to give compulsory registration to the assessees. As the turnovers of the dealers were not ascertainable, actual loss of revenue could not be worked out. At the compounded rate, non levy of tax worked out to 2.13 crore including interest and penalty.</p>	<p><b><u>2. Kunnumpurathu Granites(32061475967)</u></b> <b><u>2012-13 &amp; 2013-14</u></b> <b><u>CTO, II Circle, Thodupuzha</u></b></p> <p>M/s. Kunnupurath Granites, Kanjikuzhy was an assessee on the rolls of the Commercial Tax Officer, Cheruthoni during the audit period and later the assessment file has been transferred to the office of the Commercial Tax Officer, Kattappana. The Accountant General's audit party observed that the secondary crusher unit with 50 HP motor was functioning without the consent of the KSPCB's from 2012-13 to 2013-14, and the short levy of tax, interest and penalty worked out to be Rs.54,16,024/-.</p> <p>Based on the audit objection, assessment for the years 2012-13 to 2013-14 was completed as detailed below.</p> <table><tr><th>Assess ment Order No. &amp; Year</th><th>Assess ment Order Date</th><th>Tax</th><th>Interest</th><th>Total</th><th>Penalty</th></tr><tr><td>320614 75967/2 012-13</td><td>28.07.2 016</td><td>2,90,00 0/-</td><td>1,13,10 0/-</td><td>4,03,10 0/-</td><td></td></tr><tr><td>320614 75967/2 012-13</td><td>28.07.2 016</td><td></td><td></td><td></td><td>5,80,00 0/-</td></tr><tr><td>320614 75967/2 013-14</td><td>28.07.2 016</td><td>2,90,00 0/-</td><td>78,300/ -</td><td>3,68,30 0/-</td><td></td></tr><tr><td>320614 75967/2 013-14</td><td>28.07.2 016</td><td></td><td></td><td></td><td>5,80,00 0/-</td></tr><tr><td>TOTAL</td><td></td><td>5,80,00 0/-</td><td>1,91,40 0/-</td><td>7,71,40 0/-</td><td>11,60,0 00/-</td></tr></table> <p>Further proceedings has been stayed as per WP(C) No.32640/2016(D), dated 18.10.2016 of the Hon'ble High Court of Kerala and is still pending. Requested</p>	Assess ment Order No. & Year	Assess ment Order Date	Tax	Interest	Total	Penalty	320614 75967/2 012-13	28.07.2 016	2,90,00 0/-	1,13,10 0/-	4,03,10 0/-		320614 75967/2 012-13	28.07.2 016				5,80,00 0/-	320614 75967/2 013-14	28.07.2 016	2,90,00 0/-	78,300/ -	3,68,30 0/-		320614 75967/2 013-14	28.07.2 016				5,80,00 0/-	TOTAL		5,80,00 0/-	1,91,40 0/-	7,71,40 0/-	11,60,0 00/-
Assess ment Order No. & Year	Assess ment Order Date	Tax	Interest	Total	Penalty																																	
320614 75967/2 012-13	28.07.2 016	2,90,00 0/-	1,13,10 0/-	4,03,10 0/-																																		
320614 75967/2 012-13	28.07.2 016				5,80,00 0/-																																	
320614 75967/2 013-14	28.07.2 016	2,90,00 0/-	78,300/ -	3,68,30 0/-																																		
320614 75967/2 013-14	28.07.2 016				5,80,00 0/-																																	
TOTAL		5,80,00 0/-	1,91,40 0/-	7,71,40 0/-	11,60,0 00/-																																	

		to the O/o the Deputy Commissioner(Law)Ernakulam to take necessary arrangements for a speedy disposal of the case.
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Para No.	Gist of the Case	Present Position
<p><b>2.6.3</b> <b>Sl.No.3</b></p>	<p>Under Section 15C of the KVAT Act, any person who intends to establish an industrial unit may get himself registered under this section. No metal crushing unit can establish without the permission issued by the local body /KSEBL/KSPCB/Mining and Geology Department. Audit cross-checked the data collected from the KSPCB with the KVATIS and noticed that in four assessment offices, metal crushing units of four assesseees were not registered under the KVAT Act. The assessing authority did not take any action under Rule 17A of the KVAT Rules to give compulsory registration to the assesseees. As the turnovers of the dealers were not ascertainable, actual loss of revenue could not be worked out. At the compounded rate, non levy of tax worked out to 2.13 crore including interest and penalty.</p>	<p><b><u>3.S.N. Granite &amp; Metal Industries</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Chathannur</u></b></p> <p>Sri.Babithraj, Sreedharma, Kurumandal, Paravoor, started a crusher unit in the name M/s.S.N.Granite and Metal Industries at Nedungolam w.e.f 01.04.2014 having TIN 32021312927 and opted payment of tax on compounded rate upto 31.03.2015. Prior to this the firm was own and operated by his father Sri. Dharmarajan in the name of M/s. Sreelekshmi Bricks and S.N Granite Industries in the same place w.e.f 31.03.2005 having TIN 32021373532 and paid tax on compounding rate upto 31.03.2014.</p> <p>Due to the ill health of Sri.Dharmarajan, he reported stoppage of business w.e.f 31.03.2014 and the stock of goods including plant and machinery has been transferred to his son Sri. Babithraj.</p> <p>It may be kindly be noted that the existence of the firm has been disclosed by the dealer during KGST period onwards. A confusion has been happened when PAN card is insisted the account number of Babithraj has been uploaded and hence the name of Sri. Babithraj appeared in the KVATIS scenario. The certificate of "Integrated consent to operate renewal" has been produced by the dealer and verified and found that the same has been issued to Sr.Dharmarajan, F/o Babithraj.</p> <p>Hence there is no short levy of tax as objected in the thematic review report.</p>

Para No.	Gist of the Case	Present Position										
2.6.3 Sl.No.4	<p>Under Section 15C of the KVAT Act, any person who intends to establish an industrial unit may get himself registered under this section. No metal crushing unit can establish without the permission issued by the local body /KSEBL/KSPCB/Mining and Geology Department. Audit cross-checked the data collected from the KSPCB with the KVATIS and noticed that in four assessment offices, metal crushing units of four assesseees were not registered under the KVAT Act. The assessing authority did not take any action under Rule 17A of the KVAT Rules to give compulsory registration to the assesseees. As the turnovers of the dealers were not ascertainable, actual loss of revenue could not be worked out. At the compounded rate, non levy of tax worked out to 2.13 crore including interest and penalty.</p>	<p><b><u>4. Libas Crushers</u></b> <b><u>2009-10 to 2013-14</u></b> <b><u>CTO, Attingal</u></b></p> <p>The assessment was completed as per order No.NC-1/15-16/2009-10 &amp; 2013-14 dated 03.08.2017 and created an additional demand as follows.</p> <table><tr><td>2009-10</td><td>Rs.3.32 lakhs</td></tr><tr><td>2010-11</td><td>Rs.3.27 lakhs</td></tr><tr><td>2011-12</td><td>Rs.3.20 lakhs</td></tr><tr><td>2012-13</td><td>Rs.3.33 lakhs</td></tr><tr><td>2013-14</td><td>Rs.3.46 lakhs</td></tr></table> <p>The dealer had completely remitted the entire arrears under Amnesty Scheme 2020. No other arrears outstanding.</p>	2009-10	Rs.3.32 lakhs	2010-11	Rs.3.27 lakhs	2011-12	Rs.3.20 lakhs	2012-13	Rs.3.33 lakhs	2013-14	Rs.3.46 lakhs
2009-10	Rs.3.32 lakhs											
2010-11	Rs.3.27 lakhs											
2011-12	Rs.3.20 lakhs											
2012-13	Rs.3.33 lakhs											
2013-14	Rs.3.46 lakhs											

Para No.	Gist of the Case	Present Position
<p><b>2.6.4</b> <b>Sl.No.1</b></p>	<p>Under KVAT Act every dealer whose total turnover for a year is not less than 10 lakh shall be liable to pay tax on his sales at rates prescribed in the schedule to the Act. Further as per the KVAT Act any dealer producing granite metals with the aid of mechanised crushing machines may, at his option, pay compounded tax at the specified rates. Under Rule 24 of KVAT Rule, a dealer is required to submit quarterly/annual return in the case of compounded dealers. The dealer has to submit the monthly/quarterly and annual return, along with the details of payment of tax. Once the dealer has submitted the return the assessing authority shall accept the return within twenty four hours. Return acceptance through KVATIS by assessing authority is a fully computerised process. There was no provision in the software to ensure the consistency in data available under tax due and tax remitted. This resulted in acceptance of return by the System though the entire tax due was not remitted by the assessee. Audit noticed from the returns accepted by assessing authority that in six cases of six assessment circles, the assessee short remitted 59.19 lakh including interest.</p>	<p><b><u>1. VSC Hollow Bricks (32010720535)</u></b> <b><u>2009-10</u></b> <b><u>CTO, Special Circle, Thiruvananthapuram</u></b></p> <p>The audit objection in this case is that M/s. VSC Hollow Blocks and Crusher division is a manufacturing and trading dealer of Hollow Bricks and is also having a metal crushing unit. For the sale of Hollow bricks, assessee had filed annual return in Form No.10 and for the metal crushing unit he opted for compounding u/s 8 and filed annual return in Form 10D. As per the annual return in Form 10D, there were 2 Nos. of secondary Crushers of Size II, 2 Nos of secondary Crushers of size III and one primary crusher. The compounded tax due comes to Rs.13,63,500/- including cess. However as per the annual return, the assessee had paid a compounded tax of Rs.8,02,950/- only and short levy of tax including interest works out to Rs.6,67,055/-.</p> <p>On this being pointed out in audit, the assessing officer visited the site and found that there were only two secondary metal crusher having jaw size III. As such the total short levy of compounded tax works out to Rs.25,292/- only.</p> <p>Accordingly, based on the audit objection, the dealer remitted Rs.25,292/- with interest Rs.8,436/- vide cheque No.13856/17.01.2013. This para has been settled by AG vide letter No.SRA(HQ)II/CT/GL/16-78/12-13/212 dated 22.07.2013 of the Accountant General(E&amp;RSA), Kerala, TVPM.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.6.4</b> <b>Sl.No.2</b></p>	<p>Under KVAT Act every dealer whose total turnover for a year is not less than 10 lakh shall be liable to pay tax on his sales at rates prescribed in the schedule to the Act. Further as per the KVAT Act any dealer producing granite metals with the aid of mechanised crushing machines may, at his option, pay compounded tax at the specified rates. Under Rule 24 of KVAT Rule, a dealer is required to submit quarterly/annual return in the case of compounded dealers. The dealer has to submit the monthly/quarterly and annual return, along with the details of payment of tax. Once the dealer has submitted the return the assessing authority shall accept the return within twenty four hours. Return acceptance through KVATIS by assessing authority is a fully computerised process. There was no provision in the software to ensure the consistency in data available under tax due and tax remitted. This resulted in acceptance of return by the System though the entire tax due was not remitted by the assessee. Audit noticed from the returns accepted by assessing authority that in six cases of six assessment circles, the assessee short remitted 59.19 lakh including interest.</p>	<p><b><u>2.Marthoma Granites (32061309467)</u></b> <b><u>2012-13</u></b> <b><u>CTO, Special Circle, Thodupuzha</u></b></p> <p>Based on the audit objection, assessment in respect of the assessee for the year 2012-13 was completed as per order no.32061309467/2012-13 dated 24.12.2012 with tax effect Rs.9,00,000/-. As per KVATA 2081/2014 dated 21.02.2017 of Assistant Commissioner(Appeal), Idukki set aside the order. For the 3<sup>rd</sup> and 4<sup>th</sup> quarter, the dealer paid Rs.12,20,000/- only as against the actual amount due Rs.13,80,000/-. Hence assessment was completed with tax effect of Rs.1,60,000/- and interest. The assessee remitted the entire amount. Assessment based on the primary crusher was completed as per Order No.32061309467/2012-13 dated 18.11.2015 creating additional demand of Rs.9,27,000/-. The assessee remitted the entire amount.</p>

Para No.	Gist of the Case	Present Position
<p><b>2.6.4</b> <b>Sl.No.3</b></p>	<p>Under KVAT Act every dealer whose total turnover for a year is not less than 10 lakh shall be liable to pay tax on his sales at rates prescribed in the schedule to the Act. Further as per the KVAT Act any dealer producing granite metals with the aid of mechanised crushing machines may, at his option, pay compounded tax at the specified rates. Under Rule 24 of KVAT Rule, a dealer is required to submit quarterly/annual return in the case of compounded dealers. The dealer has to submit the monthly/quarterly and annual return, along with the details of payment of tax. Once the dealer has submitted the return the assessing authority shall accept the return within twenty four hours. Return acceptance through KVATIS by assessing authority is a fully computerised process. There was no provision in the software to ensure the consistency in data available under tax due and tax remitted. This resulted in acceptance of return by the System though the entire tax due was not remitted by the assessee. Audit noticed from the returns accepted by assessing authority that in six cases of six assessment circles, the assessee short remitted 59.19 lakh including interest.</p>	<p><b><u>3. Rajumon Granites (32081374697)</u></b> <b><u>2013-14</u></b> <b><u>CTO, Vadakkancherry</u></b></p> <p>Assessment in respect of M/s. Rajumon Granites, Thiruvilwamala for the year 2013-14 has been completed vide order No.32081374697//13-14 dated 09.01.2017 considering the defect pointed out by the Accountant General, by creating an additional demand of Rs.3,37,500/- as tax and interest Rs.1,11,375/- as interest. Aggrieved by this order the dealer filed appeal before the Joint Commissioner(Appeals), Thrissur. The Appellate Authority disposed the appeal as 'modified' vide order No.KVAT 576/17 dated 29.01.2020. The assessment order was modified as per order No.32081374697/2013-14 dated 13.08.2020 of State Tax Officer, Wadakkanchery. The assessing officer allowed the credit of admitted tax Rs.2,97,500/- which was paid before intelligence officer for the year 2013-14 while modifying the assessment as per the direction of appellate authority. The dealer remitted Rs.8,000/- as per chalan No.3719825/04.07.2017. Therefore an amount of Rs.48,000/- is excess in the modified assessment order 2013-14. An excess amount of Rs.48,000/- paid by the dealer, which is adjusted to the year 2012-13.</p>


Para No.	Gist of the Case	Present Position
<p><b>2.6.4</b> <b>Sl.No.4</b></p>	<p>Under KVAT Act every dealer whose total turnover for a year is not less than 10 lakh shall be liable to pay tax on his sales at rates prescribed in the schedule to the Act. Further as per the KVAT Act any dealer producing granite metals with the aid of mechanised crushing machines may, at his option, pay compounded tax at the specified rates. Under Rule 24 of KVAT Rule, a dealer is required to submit quarterly/annual return in the case of compounded dealers. The dealer has to submit the monthly/quarterly and annual return, along with the details of payment of tax. Once the dealer has submitted the return the assessing authority shall accept the return within twenty four hours. Return acceptance through KVATIS by assessing authority is a fully computerised process. There was no provision in the software to ensure the consistency in data available under tax due and tax remitted. This resulted in acceptance of return by the System though the entire tax due was not remitted by the assessee. Audit noticed from the returns accepted by assessing authority that in six cases of six assessment circles, the assessee short remitted 59.19 lakh including interest.</p>	<p><b><u>4. Southern Industries (32080846509)</u></b> <b><u>2013-14</u></b> <b><u>CTO, Chalakudy</u></b></p> <p>The objection pointed out by the audit team is that during the year 2013-14 the assessee had reported one primary crusher, one size – II secondary crusher and one size-III secondary crusher. The AG fixed total compounding tax for the year 2013-14 would come to Rs.7,20,000/-, against which the assessee had paid Rs.3,00,000/- only. Thus there is a short remittance of Rs.4,20,000/-.</p> <p>The assessment in respect of M/s. Southern Industries for the 2013-14 has been completed. Aggrieved by this order, the assessee filed an appeal before the Deputy Commissioner(Appeals), SGST Department, Thrissur. The Deputy Commissioner(Appeals), Thrissur has remanded the assessment for fresh disposal. The Appellate Authority also directed the appellant to make an adjudication with the Assessing Authority with proper documents to rectify the defect mentioned in the grounds and assessment order. During the first three quarter for the year 2013-14, the assessee has filed false return showing secondary machine of size II instead of size III. The intelligence officer, Squad I, Thrissur conducted inspection on 18.03.2014 and found that the assessee had installed one size III secondary machine(30"*9") along with one primary crusher(SIR No.245232 dated 18.03.2014). The offense of short payment of compounding tax u/s 8(b) for the year 2013-14 by reporting size II machine instead of Size III machine was compounded by remitting a sum of Rs.1,80,000/- towards compounding fee in lieu of prosecution under section 74 of the KVAT Act 2003. The assessee has paid an amount of Rs.1,80,000/- as compounding fee and Rs.1,80,000/- as tax vide Rt No.5024610 dated 27.03.2014 as per order no.ITD</p>

		<p>70/2013-14 dated 27.03.2014 of the Intelligence Officer, Squad No.I, Thrissur. Hence after inspection the assessee has filed last quarter return showing secondary machine of size III. From the above it is revealed that at a time the crusher unit has installed one primary machine and one secondary machine.</p> <p>In the above circumstances and in the light of appellate order the compounded tax liability for the year 2013-14 in respect of M/s. Southern Industries, Mambra is refixed. Compounding tax due Rs. 4,80,000/-, paid Rs.4,80,000/-, Balance NIL.</p>
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Para No.	Gist of the Case	Present Position
2.6.4 Sl.No.5	<p>Under KVAT Act every dealer whose total turnover for a year is not less than 10 lakh shall be liable to pay tax on his sales at rates prescribed in the schedule to the Act. Further as per the KVAT Act any dealer producing granite metals with the aid of mechanised crushing machines may, at his option, pay compounded tax at the specified rates. Under Rule 24 of KVAT Rule, a dealer is required to submit quarterly/annual return in the case of compounded dealers. The dealer has to submit the monthly/quarterly and annual return, along with the details of payment of tax. Once the dealer has submitted the return the assessing authority shall accept the return within twenty four hours. Return acceptance through KVATIS by assessing authority is a fully computerised process. There was no provision in the software to ensure the consistency in data available under tax due and tax remitted. This resulted in acceptance of return by the System though the entire tax due was not remitted by the assessee. Audit noticed from the returns accepted by assessing authority that in six cases of six assessment circles, the assessee short remitted 59.19 lakh including interest.</p>	<p><b><u>5. Prince Metal Products (32080910512)</u></b> <b><u>2013-14</u></b> <b><u>CTO, Irinjalakuda</u></b></p> <p>Based on the audit objection the assessment for the year 2013-14 has been completed under section 25(1) read with section 25(A) of the KVAT Act creating an additional demand of Rs.5,29,200/-(Tax:Rs.3,60,000/- and Interest Rs.1,69,200). Aggrieved by this order the dealer filed WPC No.23263/2017 before the Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala stayed the recovery proceedings for the year 2013-14. The dealer filed appeal before the Appellate Tribunal Ernakulam and the learned Appellate Authority granted stay. The dealer has opted Amnesty Scheme after withdrawing the appeal pending before the Hon'ble KVAT Tribunal and the Deputy Commissioner(Appeals) and paid the arrears of tax as follows.</p> <p>1.Chalan No.KL007807171201920M dated 11.10.2019 – Rs.60,0000.00 2.Chalan No.KL009949846201920M dated 15.11.2019 – Rs.60,0000.00 3.Chalan No.KL011903107201920M dated 21.12.2019 – Rs.60,0000.00 4.Chalan No. KL013341201201920M dated 21.01.2020 -- Rs.60,000.00 5.Chalan No.KL014662263201920M dated 17.02.2020 - Rs.60,000.00 6.Chalan No.KL016285329201920M dated 21.03.2020 - Rs. 60,000.00</p>



Para No.	Gist of the Case	Present Position
<p><b>2.6.4</b> <b>Sl.No.6</b></p>	<p>Under KVAT Act every dealer whose total turnover for a year is not less than 10 lakh shall be liable to pay tax on his sales at rates prescribed in the schedule to the Act. Further as per the KVAT Act any dealer producing granite metals with the aid of mechanised crushing machines may, at his option, pay compounded tax at the specified rates. Under Rule 24 of KVAT Rule, a dealer is required to submit quarterly/annual return in the case of compounded dealers. The dealer has to submit the monthly/quarterly and annual return, along with the details of payment of tax. Once the dealer has submitted the return the assessing authority shall accept the return within twenty four hours. Return acceptance through KVATIS by assessing authority is a fully computerised process. There was no provision in the software to ensure the consistency in data available under tax due and tax remitted. This resulted in acceptance of return by the System though the entire tax due was not remitted by the assessee. Audit noticed from the returns accepted by assessing authority that in six cases of six assessment circles, the assessee short remitted 59.19 lakh including interest.</p>	<p><b><u>6. Neerakkal Granites (32051064205)</u></b> <b><u>2009-10</u></b> <b><u>CTO, Special Circle, Kottayam</u></b></p> <p><b><u>2009-10</u></b></p> <p>Based on the audit objection notices were issued to the dealer for the year 2009-10. The dealer had filed Form 10 return from 4/09 to 9/09 and remitted compounded tax Rs.1,26,250/- per month. But they had filed Form 10D returns from 10/09 to 3/10 and remitted compounded tax Rs.3,78,750/-. This figure is not reflected in the annual return. Thus the annual return shows short levy of Rs.3,78,750/-. There is no revenue loss has occurred in this case.</p> <p><b><u>2010-11</u></b></p> <p>The assessee submitted the quarterly returns in Form No.10D from April to September 2010 and remitted the compounded tax Rs.3,78,750/- each with the previous year compounded rate and also submitted the quarterly returns in Form No.10D from October to March and remitted compounded tax Rs.5,68,125/- each. A notice was issued to the assessee pointing out the short remittance in compounded tax as Rs.3,78,750/-. The assessee remitted the entire amount as detailed below:</p> <p>1.Rs.1,89,375/- vide Cheque No.664014 dated 30.09.2010 and encashed on 13.10.2010.</p> <p>2.Rs.1,89,375/- vide chalan No.205 dated 23.11.2010.</p>

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

# Annexure - III

## Appendices from AC's Report

Audit Report (Revenue Sector) for the year ended 31 March 2016

### Appendix - IX

#### (Paragraph -2.5.3.1)

#### Turnover escaped assessment

(₹ in lakh)

Sl No	Name of the assessee	TIN	Name of the Assessing Circle	Year	Turnover escaped assessment	Short Levy of tax	Interest	Penalty	Total
1.	Grasshopper	32041505801	CTO(WC), Alappuzha	2012-13	109.86	3.30	1.25	6.59	11.14
				2013-14	7.49	0.22	0.06	0.45	0.73
				2014-15	5.89	0.18	0.02	0.35	0.55
2.	Avance Engineering and Infrastructure Pvt Ltd	32072044544	CTO(WC), Ernakulam	2014-15	98.65	2.96	0.38	5.92	9.26
3.	Delco Projects Pvt Ltd	32072070082	CTO(WC), Ernakulam	2012-13	499.42	14.98	5.54	29.96	50.48
4.	Cochin Engineering & Consultancy Pvt Ltd	32072068304	CTO(WC), Ernakulam	2012-13	134.99	18.22	6.74	36.45	61.41
5.	M/s Cherian Varkey Construction Company Pvt Ltd	32072054874	CTO(WC), Ernakulam	2014-15	111.66	3.35	0.40	6.70	10.45
6.	M/s GRTECH Services	32072021054	CTO(WC), Ernakulam	2013-14	40.81	1.22	0.31	2.45	3.98
7.	M/s V K Viju	32072054692	CTO(WC), Ernakulam	2012-13	38.35	3.71	1.37	7.42	12.50
8.	M/s V K Johnny	32072001772	CTO(WC), Ernakulam	2012-13	92.88	9.46	3.50	18.92	31.88
9.	M/s V C Constructions	32072067123	CTO(WC), Ernakulam	2012-13	30.00	3.09	1.14	6.17	10.40
10.	M/s Greenworth Infrastructures Pvt Ltd	32072097341	CTO(WC), Ernakulam	2012-13	200.54	6.02	2.23	12.03	20.28
				2013-14	241.53	7.25	1.88	14.49	23.62
11.	M/s P T Mathai Construction Co Pvt Ltd	32072025565	CTO(WC), Ernakulam	2012-13	95.48	3.30	1.22	6.61	11.13
				2013-14	1100.10	33.00	8.58	66.01	107.59
12.	M/s Creators Constructions	32072023091	CTO(WC), Ernakulam	2012-13	137.63	4.13	1.53	8.26	13.92
13.	M/s TAAK Constructions	32072098926	CTO(WC), Ernakulam	2012-13	12.80	0.38	0.15	0.77	1.30
				2013-14	31.89	0.96	0.25	1.91	3.12
14.	M/s Yeskey Constructions	32072070104	CTO(WC), Ernakulam	2012-13	67.43	2.02	0.77	4.05	6.84
				2013-14	398.87	11.97	3.11	23.93	39.01
15.	M/s Nutech Builders	32072025925	CTO(WC), Ernakulam	2012-13	11.07	1.49	0.57	2.99	5.05
16.	M/s V B Electrotech India Pvt Ltd	32072075831	CTO(WC), Ernakulam	2013-14	81.19	2.44	0.63	4.87	7.94
17.	M/s Modern Plumbing System	32072008824	CTO(WC), Ernakulam	2013-14	153.22	4.60	1.20	9.19	14.99
18.	M/s Align Builders	32072047694	CTO(WC), Ernakulam	2013-14	23.93	0.72	0.19	1.44	2.35
				2014-15	20.72	0.62	0.09	1.24	1.95
19.	M/s AAG India Pvt Ltd	32072008522	CTO(WC), Ernakulam	2013-14	9.07	0.27	0.07	0.54	0.88
20.	M/s. A & P Infra Realtors Pvt. Ltd	32072010028	CTO(WC), Ernakulam	2013-14	72.03	2.16	0.56	4.32	7.04

Sl No	Name of the assessee	TIN	Name of the Assessing Circle	Year	Turnover escaped assessment	Short Levy of tax	Interest	Penalty	Total
21.	M/s. Fujitec India Pvt Ltd	32072037737	CTO(WC), Emakulam	2014-15	363.14	52.66	7.37	105.31	165.34
22.	M/s Seguro Foundations	32072066908	CTO(WC), Emakulam	2013-14	179.89	5.40	1.40	10.79	17.59
23.	M/s. Nirman Engineers	32072087744	CTO(WC), Emakulam	2014-15	132.26	4.36	0.61	8.71	13.68
24.	M/s. Colour Consultants & Contractors	32072047244	CTO(WC), Emakulam	2012-13	20.43	2.76	1.05	5.52	9.33
25.	K.J Sebastian	32072078125	CTO(WC), Emakulam	2013-14	28.97	0.87	0.23	1.74	2.84
26.	M/s AB-Tek Constructions	32072090602	CTO(WC), Emakulam	2013-14	112.54	3.38	0.88	6.75	11.01
				2014-15	20.80	0.60	0.09	1.21	1.90
27.	M/s Sherin Hi-Fabs	32072033775	CTO(WC), Emakulam	2013-14	19.65	0.59	0.15	1.18	1.92
				2014-15	64.91	3.89	0.55	7.79	12.23
28.	K V J Builders & Developers Pvt Ltd	32072058472	CTO(WC), Emakulam	2013-14	75.90	2.28	0.59	4.55	7.42
29.	M/s. Cemex Projects Pvt Ltd	32072072905	CTO(WC), Emakulam	2012-13	1128.04	33.84	12.86	67.68	114.38
30.	M/s. Impact Equipments	32072096676	CTO(WC), Emakulam	2014-15	13.79	0.41	0.06	0.83	1.30
31.	J Abdul Vahid	32021670385	CTO(WC), Kollam	2013-14	175.73	19.11	4.97	38.22	62.30
32.	M/s Alpha One- Hi Tech Infra Pvt Ltd	32121241446	CTO, (WC), Kannur	2013-14	621.81	18.65	4.66	37.31	60.62
33.	Chaitanya Homes	32051692631	CTO(WC), Kottayam	2013-14	67.37	2.02	0.53	4.04	6.59
34.	M & T Constructions	32051692822	CTO(WC), Kottayam	2013-14	527.94	15.84	4.12	31.68	51.64
35.	M/s Bridgeway Engineering	32111510332	CTO(WC), Kozhikode	2013-14	64.87	1.95	0.51	3.89	6.35
36.	M/s Automation Asia Associates Pvt Ltd	32451711011	CTO(WC), Malappuram	2013-14	40.05	1.20	0.31	2.40	3.91
				2014-15	16.54	0.50	0.07	0.99	1.56
37.	K A Johnson, Railway Contractor	32151037735	CTO(WC), Mattancherry	2014-15	21.51	3.12	0.41	6.24	9.77
38.	M/s Celestial Infrastructure Pvt Ltd	32151004514	CTO(WC), Mattancherry	2012-13	57.09	7.21	2.67	14.42	24.30
39.	M/s P K Viswambaran & C	32151018003	CTO(WC), Mattancherry	2012-13	204.65	6.14	2.27	12.28	20.69
40.	M/s Shobha Projects and Trade Pvt Ltd	32151097934	CTO(WC), Mattancherry	2012-13	190.46	25.71	9.51	51.42	86.64
41.	Hope Constructions	32151014638	CTO(WC), Mattancherry	2013-14	148.95	16.20	4.21	32.40	52.81
42.	K T Mathew & Company	32151033292	CTO(WC), Mattancherry	2013-14	40.00	1.20	0.31	2.40	3.91
43.	M/s Athira Industries	32151373683	CTO, II Circle, Perumbavoor	2013-14	834.14	25.02	6.51	50.05	81.58
44.	M/s Cheerans Structural	32565630916	CTO(WC), Palakkad	2012-13	212.28	6.54	2.42	13.08	22.04
				2013-14	50.27	1.63	0.42	3.27	5.32
45.	Nakshatra Builders	32091693715	CTO(WC), Palakkad	2014-15	188.41	7.54	1.06	15.07	23.67
46.	M/s. Consolidated Construction Corporation	32091656804	CTO(WC), Palakkad	2012-13	477.16	14.31	5.44	28.63	48.38
				2014-15	1628.21	48.85	6.84	97.69	153.38

Sl No	Name of the assessee	TIN	Name of the Assessing Circle	Year	Turnover escaped assessment	Short Levy of tax	Interest	Penalty	Total
47.	E M Shaji	32489030816	CTO(WC) Thirissur	2013-14	20.91	0.63	0.16	1.25	2.04
48.	M/s BBR (India) Ltd	32011360942	CTO (WC) Thiruvananthapuram	2012-13	20.89	0.63	0.23	1.25	2.11
49.	Anil Kumar G	32011375882	CTO (WC) Thiruvananthapuram	2012-13	35.36	1.06	0.39	2.12	3.57
50.	M/s Cordial Foundation Pvt Ltd	32011359208	CTO (WC) Thiruvananthapuram	2012-13	918.34	27.55	10.19	55.10	92.84
51.	M/s Sumeru Constructions,	32011315413	CTO (WC) Thiruvananthapuram	2013-14	505.23	15.16	3.94	30.31	49.41
52.	M P Sadanandan	32011375397	CTO (WC) Thiruvananthapuram	2014-15	84.68	12.28	1.72	24.56	38.56
53.	M/s Anu Constructions (Sri K Rajan	32011355902	CTO (WC) Thiruvananthapuram	2013-14	26.16	3.79	0.99	7.59	12.37
54.	M/s Cordial Company	32011316245	CTO (WC) Thiruvananthapuram	2014-15	55.84	8.10	1.13	16.19	25.42
55.	M/s Decor Delight	32011355454	CTO (WC) Thiruvananthapuram	2013-14	37.46	1.12	0.29	2.25	3.66
56.	M/s Falcon Interiors	32011369547	CTO (WC) Thiruvananthapuram	2013-14	28.66	4.16	1.08	8.31	13.55
57.	M/s Flytech Industries (Babu P L)	32011359208	CTO (WC) Thiruvananthapuram	2014-15	8.58	1.24	0.17	2.49	3.90
58.	A Shaji	32011318181	CTO (WC) Thiruvananthapuram	2013-14	14.80	0.59	0.15	1.18	1.92
59.	Albert Raj	32011385815	CTO (WC) Thiruvananthapuram	2014-15	11.14	0.45	0.06	0.89	1.40
60.	Gopinathan Nair	32011371909	CTO (WC) Thiruvananthapuram	2013-14	3.15	0.46	0.12	0.91	1.49
61.	G.S Builders & Contractors Pvt Ltd	32011334482	CTO (WC) Thiruvananthapuram	2012-13	13.02	1.76	0.67	3.52	5.95
62.	GKR Associates	32011319057	CTO (WC) Thiruvananthapuram	2013-14	25.64	3.72	0.97	7.43	12.12
				2014-15	15.29	2.22	0.31	4.43	6.96
				2010-11	136.93	17.29	8.13	34.58	60.00
				2011-12	125.49	15.84	5.54	31.69	53.07
				2012-13	429.83	58.03	13.35	116.05	187.43
				2013-14	46.01	6.67	1.73	13.34	21.74
				2014-15	82.47	11.96	1.67	23.92	37.55
				2010-11	31.21	3.94	1.85	7.88	13.67
				2011-12	47.40	5.98	2.09	11.97	20.04
				2012-13	86.04	11.62	2.67	23.23	37.52
				2011-12	162.19	4.91	1.72	9.83	16.46
				2012-13	469.51	14.09	3.24	28.17	45.50
				2010-11	257.48	7.80	3.67	15.60	27.07
				2011-12	112.45	3.41	1.19	6.81	11.41

SI No	Name of the assessee	TIN	Name of the Assessing Circle	Year	Turnover escaped assessment	Short Levy of tax	Interest	Penalty	Total
63.	M/s Marvel Floorings	32011324/27	CTO (WC) Thiruvananthapuram	2012-13 2010-11 2011-12 2012-13	16.10 14.24 130.57 402.29	0.48 0.43 3.96 12.07	0.11 0.20 1.38 2.78	0.97 0.86 7.91 24.14	1.56 1.49 13.25 38.99
64.	Cynosure Power Systems	32011360154	CTO (WC) Thiruvananthapuram	2011-12 2012-13	26.78 146.00	0.81 4.38	0.28 1.01	1.62 8.76	2.71 14.15
65.	M/s. Aqua Designs India Pvt Ltd	32011362922	CTO (WC) Thiruvananthapuram	2013-14	359.68	10.79	2.81	21.58	35.18
66.	M/s Basic Engineering System	32011361368	CTO (WC) Thiruvananthapuram	2014-15	58.47	2.34	0.33	4.68	7.35
67.	M/s Zion Glass Land (George & Mini)	32010845782	CTO III Circle, Thiruvananthapuram	2013-14	6.05	0.88	0.23	1.75	2.86
68.	Sri G Santosh Kumar	32010836837	CTO III Circle, Thiruvananthapuram	2013-14	49.93	1.50	0.39	3.00	4.89
69.	T A Abdul Rehman	32220411304	CTO (WC) Kasaragod	2013-14	452.26	13.57	3.53	27.14	44.24
70.	M/s. City Aluminium Fabricator	32150614634	CTO, II Circle, Mattancherry	2014-15	51.60	1.55	0.22	3.10	4.87
71.	Mohammad Aslam	32061508885	CTO (WC) Idukki	2013-14	123.27	17.87	4.65	35.75	58.27
<b>Total</b>					<b>17297.75</b>	<b>806.39</b>	<b>217.67</b>	<b>1612.68</b>	<b>2636.74</b>



**Appendix - X**

**(Paragraph -2.5.3.4)**

**Incorrect grant of exemption of sub contract turnover**

(₹ in lakh)

Sl.No	Name of the assessee	TIN	Name of the Assessing Circle	Year	Turnover incorrectly exempted	Short Levy of tax	Interest	Penalty	Total
1	M/s Skyline Foundations and Structures Ltd	32011369345	CTO, (W C), Thiruvananthapuram	2013-14	21.84	0.66	0.16	1.31	2.13
2	Nirmithi Kendra	32528741212	CTO, (W C), Kannur	2013-14	119.44	3.58	0.90	7.17	11.65
3	EKK&Co	32151046307	CTO(WC), Mattancherry	2012-13	236.62	7.10	2.62	14.20	23.92
4	M/s Asset Homes Pvt Ltd	32072010445	CTO, (WC), Ernakulam	2013-14	343.93	13.76	3.44	27.51	44.71
5	M/s KSCC	32072082322	CTO, (WC), Ernakulam	2014-15	526.17	15.79	2.05	31.57	49.41
					2712.06	108.48	41.23	216.96	366.67
				2012-13	1308.64	52.35	19.89	104.69	176.93
					6114.14	244.57	92.93	489.13	826.63
					1077.82	43.11	16.38	86.23	145.72
					9765.03	390.60	101.56	781.20	1273.36
				2013-14	13076.18	523.05	135.99	1046.09	1705.13
					359.77	14.39	3.74	28.78	46.91
6	M/s Tiknar Homes Pvt Ltd	32072022808	CTO, (WC), Ernakulam	2012-13	250.76	7.52	2.86	15.05	25.43
7	M/s Mabel Engineers Pvt Ltd (V)	32072014056	CTO, (WC), Ernakulam	2014-15	92.70	13.44	1.88	26.88	42.20
8	M/s Tech Steel	32072063174	CTO, (WC), Ernakulam	2014-15	18.86	2.73	0.38	5.47	8.58
					72.41	10.50	1.47	21.00	32.97
9	M/s G R Engineering Private Limited	32072044465	CTO, (WC), Ernakulam	2013-14	59.34	1.78	0.46	3.56	5.80
				2012-13	278.30	7.20	2.74	14.41	24.35
				2012-13	135.03	17.48	6.64	34.97	59.09
				2013-14	548.74	61.02	15.87	122.04	198.93
10	M/s. Skyline Builders	32072047255	CTO(WC), Ernakulam	2014-15	2878.88	237.51	33.25	475.02	745.78
					39964.56	1776.62	486.44	3553.24	5816.30
				Total					

## Appendix – XI

(Ref. Paragraph 2.6)

## Compounded rate of metal crushing units

(₹ in lakh)

Year	Secondary			Cone	Primary
	Size I <sup>#</sup>	Size II <sup>#</sup>	Size III <sup>#</sup>		
2009-10	0.40/0.25*	1.50/1.00*	3.00	10.00	50 per cent of aggregate of compounded tax
2010-11	0.40/0.25*	1.40/1.00*	2.80	15.00	
2011-12	0.40/0.25*	1.40/1.00*	2.80	15.00	
2012-13	0.40/0.30*	1.60/1.20*	3.20	18.00	
2013-14	0.40/0.30*	1.60/1.20*	3.20	18.00	

<sup>#</sup> Crushing machines are categorised as size I, II & III with respect to the Jaw size as follows.

Size I : Not exceeding 30.48cm X 22.86 cm; Size II : exceeding 30.48cm X 22.86 cm but less than 40.64cm X 25.40cm; Size III : exceeding 40.64cm X 25.40cm

\* Reduced rate is applicable in the case of units having only a single secondary crushing machine

Appendix – XII

(Ref. Paragraph 2.6.1)

Short levy of tax due to under reporting of size and/or number of metal crushers

(₹ in lakh)

Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
1.	Banyas Granite Industries	32101077701	AIT & CTO, Manjeri at Kottakkal	2009-10	2.78	1.75	5.56	10.09
				2010-11	1.82	0.93	3.64	6.39
				2011-12	1.82	0.71	3.64	6.17
				2012-13	1.60	0.43	3.20	5.23
				2013-14	1.60	0.24	3.20	5.04
2.	Vikas Granites	32100463812	CTO, Manjeri	2010-11	1.31	0.67	2.62	4.60
				2011-12	1.82	0.71	3.64	6.17
				2012-13	2.00	0.54	4.00	6.54
				2013-14	2.00	0.30	4.00	6.30
				2009-10	1.83	1.32	3.66	6.81
3.	Crescent Granites Industries	32100471707	CTO, Manjeri	2010-11	1.82	1.09	3.64	6.55
				2011-12	1.82	0.87	3.64	6.33
				2012-13	2.00	0.72	4.00	6.72
				2013-14	2.00	0.48	4.00	6.48
				2009-10	2.02	1.52	4.04	7.58
4.	(*) Kohinoor Granite Industries	32100452998	CTO, Manjeri	2010-11	2.12	1.34	4.24	7.70
				2011-12	2.12	1.08	4.24	7.44
				2012-13	2.40	0.94	4.80	8.14
				2013-14	2.40	0.65	4.80	7.85
				2009-10	4.55	3.41	9.09	17.04
5.	(*) Feroz Granites Industries	32100432625	CTO, Manjeri	2010-11	4.24	2.67	8.48	15.40
				2011-12	4.24	2.16	8.48	14.89
				2012-13	4.80	1.87	9.60	16.27
				2009-10	2.78	2.08	5.56	10.42
				2010-11	1.82	1.15	3.64	6.60
6.	(*) Al-Madeena Metals and cement industries	32100490315	CTO, Manjeri	2011-12	1.82	0.93	3.64	6.38
				2012-13	1.82	0.78	4.00	6.60
				2013-14	2.00	0.78	4.00	6.78
				2009-10	2.78	2.08	5.56	10.42
				2010-11	1.82	1.15	3.64	6.60
7.	(*) Crescent Granite Industries	32100471707	CTO, Manjeri	2011-12	1.82	0.93	3.64	6.38
				2012-13	2.00	0.78	4.00	6.78
				2009-10	2.78	2.08	5.56	10.42
				2010-11	1.82	1.15	3.64	6.60
				2011-12	1.82	0.93	3.64	6.38



Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
8.	(*) Chengot Stone Crusher	32100402734	CTO, Manjeri	2013-14	2.00	0.54	4.00	6.54
				2009-10	4.29	3.22	8.59	16.10
				2010-11	3.23	2.04	6.46	11.73
				2011-12	2.12	1.08	4.24	7.44
				2012-13	2.55	0.99	5.10	8.64
9.	(*) Marva Metals	32100780892	CTO, Perinthalmanna	2013-14	2.55	0.69	5.10	8.34
				2009-10	2.78	2.08	5.56	10.42
				2010-11	1.82	1.15	3.64	6.60
				2011-12	1.82	0.93	3.64	6.38
				2012-13	2.40	0.94	4.80	8.14
10.	(*) Karipur Granite Industries	32100635406	CTO, Tirurangadi	2013-14	7.20	1.94	14.40	23.54
				2009-10	4.29	3.22	8.59	16.10
				2012-13	3.60	1.40	7.20	12.20
				2013-14	3.60	0.97	7.20	11.77
				2009-10	2.27	1.70	4.55	8.52
11.	(*) Gulfar Granites	32100662845	CTO, Tirurangadi	2010-11	2.12	1.34	4.24	7.70
				2011-12	2.12	1.08	4.24	7.44
				2012-13	2.40	0.94	4.80	8.14
				2012-13	8.00	3.12	16.00	27.12
				2013-14	8.00	2.16	16.00	26.16
12.	(*) Emnad Cement & Metals	32100624191	CTO, Tirurangadi	2010-11	12.73	6.49	25.46	44.68
				2011-12	8.48	3.31	16.96	28.75
				2012-13	9.60	2.59	19.20	31.39
				2013-14	33.00	4.95	66.00	103.95
				2009-10	1.26	0.79	2.52	4.57
14.	Prime Metal Industries	32421440303	CTO, Adoor	2010-11	0.76	0.39	1.52	2.67
				2011-12	0.76	0.30	1.52	2.58
				2012-13	0.90	0.24	1.80	2.94
				2013-14	0.90	0.14	1.80	2.84
				2009-10	1.26	0.79	2.52	4.57
15.	Ricko Rocks and Granites	32030396469	CTO, Adoor	2009-10	1.26	0.79	2.52	4.57
				2009-10	1.26	0.79	2.52	4.57
				2009-10	1.26	0.79	2.52	4.57
				2009-10	1.26	0.79	2.52	4.57
				2009-10	1.26	0.79	2.52	4.57
16.	Stonage Metal Crusher	32030358805	CTO, Adoor	2009-10	1.26	0.79	2.52	4.57

Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
17.	Plakkattu Granites Industries	32295390304	CTO, Pathnanthitta	2009-10	6.19	3.90	12.38	22.47
				2010-11	2.12	1.10	4.24	7.46
				2011-12	2.12	0.85	4.24	7.21
				2012-13	2.40	0.67	4.80	7.87
				2013-14	27.00	4.32	54.00	85.32
18.	Edayan Rocks	32030545599	CTO, Pathnanthitta	2009-10	6.82	4.30	13.64	24.76
				2010-11	6.36	3.24	12.72	22.32
				2011-12	6.36	2.48	12.72	21.56
19.	Konni Kochin Granites	32030495684	CTO, Pathnanthitta	2009-10	2.78	1.75	5.56	10.09
				2010-11	1.82	0.93	3.64	6.39
				2011-12	2.12	0.83	4.24	7.19
20.	Wilson Stone Crusher	32030494929	CTO, Pathnanthitta	2009-10	1.26	0.79	2.52	4.57
				2010-11	0.76	0.39	1.52	2.67
				2011-12	0.76	0.30	1.52	2.58
				2012-13	0.90	0.24	1.80	2.94
				2013-14	0.90	0.14	1.80	2.84
21.	Ravindra Rock Crushing Plant	32030513752	CTO, Thiruvalla	2009-10	4.09	2.58	8.18	14.85
22.	Lakshmi Stone Industries	32030547456	IAC, Pathnanthitta	2009-10	3.78	2.42	7.56	13.76
23.	Kuzhuvammanil Industries	32030516834	IAC, Pathnanthitta	2011-12	11.36	4.43	22.72	38.51
24.	Malleil Industries Pvt Ltd	32030246507	IAC, Pathnanthitta	2009-10	4.54	2.86	9.08	16.48
				2012-13	9.60	3.26	19.20	32.06
				2013-14	9.60	2.11	19.20	30.91
25.	Central Granites	32080764824	AIT& CTO, Thrissur	2009-10	2.63	1.66	5.26	9.55
				2011-12	2.42	0.94	4.84	8.20
				2012-13	2.80	0.76	5.60	9.16
				2009-10	6.82	4.30	13.64	24.76
26.	Vilammana Industries	32080866309	CTO, Chalakkudy	2010-11	6.36	3.24	12.72	22.32
				2011-12	6.36	2.48	12.72	21.56
				2012-13	7.20	1.94	14.40	23.54

Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
27.	ACK Sons Rock Processing Unit	32080865185	CTO, Chalakudy	2013-14	7.20	1.08	14.40	22.68
				2009-10	3.03	1.91	6.06	11.00
				2010-11	3.23	1.65	6.46	11.34
				2011-12	3.23	1.26	6.46	10.95
				2012-13	3.60	0.97	7.20	11.77
				2013-14	3.60	0.54	7.20	11.34
28.	Southern Industries	32080846509	CTO, Chalakudy	2010-11	1.82	0.93	3.64	6.39
				2011-12	1.82	0.71	3.64	6.17
				2012-13	2.40	0.65	4.80	7.85
29.	Pathiyarambil Industries	32080888304	CTO, Chalakudy	2011-12	0.76	0.30	1.52	2.58
				2012-13	0.95	0.26	1.90	3.11
				2013-14	0.90	0.14	1.80	2.84
30.	PJP Granites	32080835935	CTO, Chalakudy	2009-10	3.03	1.94	6.06	11.03
				2010-11	2.83	1.47	5.66	9.96
				2011-12	2.83	1.13	5.66	9.62
				2012-13	3.20	0.90	6.40	10.50
				2013-14	3.20	0.51	6.40	10.11
31.	K.J.Vasudevan Nair Granites	32080795435	CTO, III Circle, Trichur	2009-10	2.27	1.45	4.54	8.26
				2010-11	3.03	1.58	6.06	10.67
				2011-12	3.03	1.21	6.06	10.30
				2012-13	8.40	2.35	16.80	27.55
				2013-14	3.60	0.58	7.20	11.38
32.	Marbles & Minerals	32224550809	CTO, Irinjakkuda	2009-10	5.50	3.52	11.00	20.02
				2010-11	5.10	2.65	10.20	17.95
				2011-12	5.15	2.06	10.30	17.51
				2012-13	5.80	1.62	11.60	19.02
				2013-14	1.80	0.29	3.60	5.69
33.	Panthalookkaran Granites	32080922594	CTO, Irinjakkuda	2009-10	4.55	2.87	9.10	16.52
				2010-11	4.24	2.16	8.48	14.88
				2011-12	4.24	1.65	8.48	14.37
				2012-13	4.80	1.30	9.60	15.70
				2013-14	4.80	0.72	9.60	15.12

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Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
34.	Jayam Sands & Gravel (P) Ltd	32080965456	CTO, Irinjalakuda	2012-13	9.60	2.59	19.20	31.39
				2013-14	9.60	1.44	19.20	30.24
35.	Thomson Granites	32080244523	CTO, Special Circle, Thrissur	2010-11	22.50	11.48	45.00	78.98
36.	(*) Blue Mountain Granites	32080985302	CTO, Special Circle, Thrissur	2010-11	3.64	2.29	7.27	13.20
				2011-12	3.64	1.85	7.27	12.76
				2012-13	4.20	1.64	8.40	14.24
				2013-14	4.20	1.13	8.40	13.73
37.	Esskay Industries	32081361096	CTO, Special Circle, Thrissur	2009-10	5.68	4.09	11.36	21.13
				2012-13	4.80	1.73	9.60	16.13
				2013-14	31.80	7.63	63.60	103.03
38.	Three Star Granites	32081274235	CTO, Special Circle, Thrissur	2009-10	6.82	4.36	13.64	24.82
				2010-11	6.36	3.31	12.72	22.39
39.	Rajumon Granites	32081374697	CTO, Wadakkancherry	2012-13	2.90	0.81	5.80	9.51
40.	Shakti Granites	32081377814	CTO, Wadakkancherry	2010-11	1.38	0.80	2.76	4.94
				2011-12	1.57	0.72	3.14	5.43
				2012-13	1.70	0.58	3.40	5.68
				2013-14	2.48	0.55	4.96	7.99
41.	Thoomkuzhy Granites	32081369962	CTO, Wadakkancherry	2009-10	2.78	1.75	5.56	10.09
				2010-11	2.58	1.32	5.16	9.06
				2011-12	1.82	0.71	3.64	6.17
				2012-13	2.00	0.54	4.00	6.54
				2013-14	1.50	0.23	3.00	4.73
42.	Jams Granites(P) Ltd	32081325085	CTO, Wadakkancherry	2012-13	3.20	0.86	6.40	10.46
				2013-14	3.20	0.48	6.40	10.08
43.	CBM Enterprises	32140461418	AIT&CTO Vythiri at Kalpetta	2011-12	7.58	3.03	15.16	25.77
44.	Green Rock Crushers & Mines(P) Ltd	32071343253	C TO, II Circle, Kalamassery	2013-14	4.80	0.72	9.60	15.12
45.	Monarch Cement Works	32021397909	CTO, Chathannur	2009-10	4.55	2.91	9.10	16.56
				2010-11	4.24	2.20	8.48	14.92
				2011-12	4.24	1.70	8.48	14.42
				2012-13	4.80	1.34	9.60	15.74
				2013-14	4.80	0.77	9.60	15.17
46.	Satyam Granite Industries	32021405594	CTO, Anchal	2010-11	4.09	2.05	8.18	14.32

Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
47.	Ananthapuri Blue Metals	32021434787	CTO, Anchal	2011-12	4.24	1.61	8.48	14.33
48.	Charuvilla Metal Crusher	32021476244	CTO, Anchal	2011-12	3.54	1.35	7.08	11.97
				2012-13	2.32	0.88	4.64	7.84
				2012-13	2.80	0.73	5.60	9.13
				2013-14	2.80	0.39	5.60	8.79
49.	Lal Metal Crusher	32021411185	CTO, Anchal	2011-12	2.02	0.77	4.04	6.83
				2012-13	2.40	0.62	4.80	7.82
				2013-14	2.40	0.34	4.80	7.54
50.	Aaramam Industries	32020914881	CTO, Karunagapally	2010-11	4.24	2.20	8.48	14.92
				2011-12	4.24	1.70	8.48	14.42
				2012-13	5.40	1.51	10.80	17.71
				2013-14	5.40	0.86	10.80	17.06
51.	Sarathy Metal Crusher	32020924634	CTO, Karunagapally	2010-11	2.12	1.10	4.24	7.46
				2011-12	2.12	0.85	4.24	7.21
				2012-13	2.40	0.67	4.80	7.87
52.	New Excel Granites	32021044593	CTO, Kottarakkara	2013-14	2.40	0.34	4.80	7.54
53.	Pooovotu Industries	32021026931	CTO, Kottarakkara	2013-14	4.80	0.77	9.60	15.17
54.	Akkavilla Sajeevan Aggregates	32021215784	CTO, Kunda	2013-14	9.00	1.44	18.00	28.44
55.	A S Industries	32021276995	CTO, Kundara	2009-10	3.03	2.18	6.06	11.27
				2012-13	6.40	2.30	12.80	21.50
				2013-14	1.60	0.38	3.20	5.18
56.	Kannan Granite Industries	32021206255	CTO, Kundara	2010-11	4.24	2.12	8.48	14.84
57.	Sha Metal Crusher	32021269108	CTO, Kundara	2009-10	2.27	1.41	4.54	8.22
				2010-11	1.41	0.71	2.82	4.94
				2011-12	1.41	0.54	2.82	4.77
				2012-13	1.60	0.42	3.20	5.22
				2013-14	1.60	0.22	3.20	5.02
58.	Chithara Metal crusher	32021425405	CTO, Special Circle, Kollam	2011-12	22.73	9.09	45.46	77.28
59.	Darshan Granite Pvt Ltd	32449270211	CTO, Special Circle, Kollam	2011-12	22.73	10.46	45.46	78.65
				2012-13	54.00	18.36	108.00	180.36
				2013-14	54.00	11.88	108.00	173.88
60.	(*) Kohinoor Granites Industries	32090562156	CTO I Circle, Palakkad	2009-10	4.55	3.41	9.09	17.04
				2010-11	4.24	2.67	8.48	15.40



Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
61.	(*) Korien Granite Industries	32090596075	CTO, I Circle, Palakkad	2012-13	2.40	0.94	4.80	8.14
				2013-14	2.40	0.65	4.80	7.85
				2009-10	3.03	2.27	6.06	11.36
				2010-11	2.83	1.78	5.66	10.27
				2011-12	2.58	1.31	5.15	9.04
62.	Mubarak Metal Crusher Unit	32543190910	CTO, Ottapalam	2012-13	2.90	1.13	5.80	9.83
				2013-14	2.90	0.78	5.80	9.48
				2009-10	1.52	0.96	3.04	5.52
				2010-11	1.41	0.72	2.82	4.95
				2011-12	1.41	0.55	2.82	4.78
63.	Valluvanad Granites	32204280910	CTO, Ottapalam	2012-13	1.60	0.43	3.20	5.23
				2013-14	1.60	0.24	3.20	5.04
				2009-10	6.82	4.30	13.64	24.76
				2010-11	6.36	3.24	12.72	22.32
				2011-12	6.36	2.48	12.72	21.56
64.	Amal Granites	32283210910	CTO, Ottapalam	2012-13	7.43	2.01	14.86	24.30
				2013-14	9.60	1.44	19.20	30.24
				2009-10	2.78	1.75	5.56	10.09
				2010-11	2.56	1.31	5.12	8.99
				2011-12	2.58	1.01	5.16	8.75
65.	Mabrook Granites	32273300911	CTO, Pattambi	2012-13	3.70	1.00	7.40	12.10
				2009-10	2.78	1.75	5.56	10.09
				2010-11	1.82	0.93	3.64	6.39
				2009-10	8.48	6.36	16.97	31.82
				2010-11	7.88	4.96	15.76	28.60
66.	(*) MalabarBlue Metals	32091142094	CTO, Pattambi	2011-12	7.88	4.02	15.76	27.65
				2012-13	9.00	3.51	18.00	30.51
				2013-14	9.00	2.43	18.00	29.43
				2009-10	4.29	2.75	8.58	15.62
				2010-11	3.23	1.68	6.46	11.37
67.	Well Worth Granites	32151351598	CTO II Circle, Perumbavoor	2011-12	3.23	1.29	6.46	10.98
				2012-13	3.60	1.01	7.20	11.81

Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
68.	Abson Aggregates	32150790685	CTO, Aluva	2013-14	3.60	0.58	7.20	11.38
				2009-10	3.94	2.76	7.88	14.58
				2010-11	2.12	1.23	4.24	7.59
				2011-12	2.12	0.98	4.24	7.34
				2012-13	2.40	0.82	4.80	8.02
69.	Matha Industries	32150835606	CTO, Angamali	2013-14	2.40	0.53	4.80	7.73
				2009-10	1.52	1.06	3.04	5.62
				2010-11	1.82	1.06	3.64	6.52
				2011-12	1.82	0.84	3.64	6.30
				2012-13	2.00	0.68	4.00	6.68
70.	Parappuram Granites	32151251755	CTO, I Circle, Perumbavoor	2013-14	2.00	0.44	4.00	6.44
				2009-10	2.27	1.41	4.54	8.22
				2010-11	2.12	1.06	4.24	7.42
				2011-12	2.12	0.81	4.24	7.17
				2012-13	2.40	0.62	4.80	7.82
71.	MAM Industries	32151289184	CTO, I Circle, Perumbavoor	2009-10	1.52	0.94	3.04	5.50
				2011-12	1.82	0.69	3.64	6.15
				2012-13	2.00	0.52	4.00	6.52
				2009-10	2.27	1.45	4.54	8.26
				2010-11	2.12	1.10	4.24	7.46
72.	Thottathil Granites	32151229435	CTO, I Circle, Perumbavoor	2011-12	2.12	0.85	4.24	7.21
				2012-13	2.40	0.67	4.80	7.87
				2009-10	2.27	1.41	4.54	8.22
				2010-11	2.12	1.06	4.24	7.42
				2011-12	2.12	0.81	4.24	7.17
73.	Devanatha Rock Products	32151215362	CTO, I Circle, Perumbavoor	2012-13	2.40	0.62	4.80	7.82
				2009-10	2.27	1.45	4.54	8.26
				2010-11	2.12	1.10	4.24	7.46
				2011-12	2.12	0.81	4.24	7.17
				2012-13	2.40	0.62	4.80	7.82
74.	Periyar Granites Pvt Ltd	32151333082	CTO, II Circle, Perumbavoor	2009-10	2.27	1.45	4.54	8.26
				2010-11	2.12	1.10	4.24	7.46
				2011-12	2.12	0.85	4.24	7.21
				2012-13	2.40	0.67	4.80	7.87
				2013-14	2.40	0.38	4.80	7.58
75.	Aradhana Industries	32151311664	CTO, II Circle, Perumbavoor	2009-10	2.78	1.75	5.56	10.09
				2010-11	2.57	1.31	5.14	9.02

Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
76.	KVM Granites	32151339156	CTO, II Circle, Perumbavoor	2011-12	1.81	0.71	3.62	6.14
				2012-13	2.40	0.65	4.80	7.85
				2011-12	2.12	0.85	4.24	7.21
77.	Nabilson Granites	32151329954	CTO, II Circle, Perumbavoor	2012-13	2.40	0.67	4.80	7.87
				2011-12	6.36	2.48	12.72	21.56
				2012-13	7.20	1.94	14.40	23.54
				2013-14	7.20	1.08	14.40	22.68
78.	Raja Granites	32151330909	CTO, II Circle, Perumbavoor	2009-10	6.41	4.10	12.82	23.33
				2010-11	6.36	3.31	12.72	22.39
				2011-12	4.24	1.70	8.48	14.42
				2012-13	4.80	1.34	9.60	15.74
79.	Vadakkal Metals	32151382817	CTO, II Circle, Perumbavoor	2012-13	2.40	0.65	4.80	7.85
				2013-14	4.80	0.72	9.60	15.12
80.	St Thomas Industries	32151370285	CTO, II Circle, Perumbavoor	2009-10	4.29	2.70	8.58	15.57
				2010-11	3.23	1.65	6.46	11.34
				2011-12	3.23	1.26	6.46	10.95
				2012-13	3.60	0.97	7.20	11.77
				2013-14	3.60	0.54	7.20	11.34
81.	Badhusha Metals	32151391817	CTO, II Circle, Perumbavoor	2012-13	6.00	1.62	12.00	19.62
				2013-14	4.80	0.72	9.60	15.12
82.	Al-Madeena Granites & Hollow Bricks	32151306701	CTO, II Circle, Perumbavoor	2009-10	2.78	1.78	5.56	10.12
				2010-11	1.82	0.95	3.64	6.41
				2011-12	1.82	0.73	3.64	6.19
				2012-13	2.00	0.56	4.00	6.56
				2013-14	3.60	0.58	7.20	11.38
83.	Perumbavoor Aggregates	32151399006	CTO, II Circle, Perumbavoor	2009-10	2.27	1.43	4.54	8.24
				2010-11	2.12	1.08	4.24	7.44
				2011-12	2.12	0.83	4.24	7.19
				2012-13	2.40	0.67	4.80	7.87
				2013-14	2.40	0.36	4.80	7.56
84.	Navodaya Granites	32151397904	CTO, II Circle, Perumbavoor	2009-10	2.77	1.75	5.54	10.06
				2010-11	1.82	0.93	3.64	6.39
				2011-12	1.82	0.71	3.64	6.17



Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
85.	MG Industries	32151333137	CTO, II Circle, Perumbavoor	2012-13	2.40	0.65	4.80	7.85
				2010-11	1.82	0.93	3.64	6.39
				2011-12	1.82	0.71	3.64	6.17
				2012-13	2.00	0.54	4.00	6.54
				2013-14	2.00	0.30	4.00	6.30
86.	Vijaya Granites	32151300502	CTO, II Circle, Perumbavoor	2009-10	3.03	1.94	6.06	11.03
				2010-11	2.83	1.47	5.66	9.96
				2011-12	2.83	1.13	5.66	9.62
				2012-13	3.20	0.90	6.40	10.50
87.	Varkisons Engineers	32151375112	CTO, II Circle, Perumbavoor	2013-14	7.20	1.15	14.40	22.75
88.	B&M Granites	32151361689	CTO, II Circle, Perumbavoor	2011-12	2.12	0.83	4.24	7.19
				2012-13	2.40	0.65	4.80	7.85
				2013-14	2.40	0.36	4.80	7.56
89.	Union Granites	32151384909	CTO, II Circle, Perumbavoor	2010-11	2.83	1.44	5.66	9.93
				2011-12	2.83	1.10	5.66	9.59
				2012-13	3.20	0.86	6.40	10.46
90.	Modern Cemento Bricks	32151360532	CTO, II Circle, Perumbavoor	2012-13	2.40	0.65	4.80	7.85
				2013-14	2.40	0.36	4.80	7.56
91.	Parathuvayalil Granites	32151422935	CTO, II Circle, Perumbavoor	2009-10	5.05	3.18	10.10	18.33
92.	(*) St. Mary's Granites	32151309467	CTO, II Circle, Perumbavoor	2009-10	6.82	5.11	13.64	25.57
				2010-11	6.36	4.01	12.73	23.10
				2011-12	4.24	2.16	8.48	14.89
				2012-13	4.80	1.87	9.60	16.27
				2013-14	4.80	1.30	9.60	15.70
93.	(*) Star Granites	32151379983	CTO, II Circle, Perumbavoor	2010-11	2.12	1.34	4.24	7.70
				2011-12	2.12	1.08	4.24	7.44
				2012-13	2.40	0.94	4.80	8.14
				2013-14	2.40	0.65	4.80	7.85

Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
94.	(*) Shalimar Granites	32151312325	CTO, II Circle, Perumbavoor	2009-10	2.27	1.70	4.55	8.52
				2010-11	2.12	1.34	4.24	7.70
95.	(*) Mundakkal Granites	32151325612	CTO, II Circle, Perumbavoor	2010-11	2.12	1.34	4.24	7.70
				2011-12	2.12	1.08	4.24	7.44
				2012-13	2.40	0.94	4.80	8.14
				2013-14	2.40	0.65	4.80	7.85
96.	Afsiya Granites	32151377226	CTO, II Circle, Perumbavoor	2009-10	0.76	0.49	1.52	2.77
				2010-11	1.11	0.58	2.22	3.91
				2011-12	0.91	0.36	1.82	3.09
				2012-13	1.00	0.28	2.00	3.28
97.	Dhanya Granites	32151333284	CTO, II Circle, Perumbavoor	2009-10	1.52	0.97	3.04	5.53
				2010-11	1.41	0.73	2.82	4.96
				2011-12	1.41	0.56	2.82	4.79
				2012-13	0.00	0.00	0.00	0.00
				2013-14	1.60	0.26	3.20	5.06
98.	(*) New National Granites	32151346595	CTO, II Circle, Perumbavoor	2010-11	2.12	1.34	4.24	7.70
				2011-12	2.12	1.08	4.24	7.44
				2012-13	2.40	0.94	4.80	8.14
				2013-14	2.40	0.65	4.80	7.85
99.	Ansal Granite Products	32151311627	CTO, II Circle, Perumbavoor	2013-14	4.80	0.77	9.60	15.17
100.	Poovellil Aggregates	32151354254	CTO, II Circle, Perumbavoor	2012-13	2.40	0.67	4.80	7.87
				2013-14	2.40	0.38	4.80	7.58
101.	AKP Granites	32151357933	CTO, II Circle, Perumbavoor	2013-14	2.00	0.32	4.00	6.32
102.	Quality Stone Products	32151346503	CTO, II Circle, Perumbavoor	2009-10	2.27	1.45	4.54	8.26
				2010-11	2.12	1.10	4.24	7.46
				2011-12	4.24	1.70	8.48	14.42
				2012-13	4.80	1.34	9.60	15.74
				2013-14	4.80	0.77	9.60	15.17
103.	(*) Punnekottayil Granites	32151562299	CTO, Kothamangalam	2009-10	3.03	2.27	6.06	11.36

Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
104.	(*) Periyar Associates	32151568239	CTO, Kothamangalam	2010-11	2.12	1.34	4.24	7.70
				2011-12	2.12	1.08	4.24	7.44
				2012-13	2.40	0.94	4.80	8.14
				2013-14	2.40	0.65	4.80	7.85
105.	PPM Granites	32151441014	CTO, Moovattupuzha	2012-13	7.20	2.81	14.40	24.41
				2013-14	7.20	1.94	14.40	23.54
				2009-10	1.52	0.96	3.04	5.52
				2010-11	2.12	1.08	4.24	7.44
				2011-12	2.12	0.83	4.24	7.19
				2012-13	2.40	0.65	4.80	7.85
				2013-14	2.40	0.36	4.80	7.56
106.	United Granites	32151379994	CTO, Special Circle, Perumbavoor	2009-10	6.57	4.20	13.14	23.91
				2010-11	8.99	4.67	17.98	31.64
				2011-12	8.99	3.60	17.98	30.57
107.	Ozone Granites	32151303573	CTO, Special Circle, Perumbavoor	2012-13	10.60	2.86	21.20	34.66
108.	Everone Properties India Pvt Ltd	32151589931	CTO, Special Circle, Perumbavoor	2010-11	8.20	4.26	16.40	28.86
				2013-14	27.00	4.32	54.00	85.32
109.	Parakkal Rock Products	32151362312	CTO, Special Circle, Perumbavoor	2010-11	4.24	2.46	8.48	15.18
				2011-12	4.24	1.95	8.48	14.67
				2012-13	4.80	1.63	9.60	16.03
				2013-14	4.80	1.06	9.60	15.46
110.	Megha Granites	32151338515	CTO, Special Circle, Perumbavoor	2009-10	4.55	2.91	9.10	16.56
				2010-11	4.24	2.20	8.48	14.92
				2011-12	4.24	1.70	8.48	14.42
				2012-13	4.80	1.34	9.60	15.74
				2013-14	4.80	0.77	9.60	15.17
111.	Sabari Granites	32060939984	CTO, Adimali	2010-11	2.12	1.10	4.24	7.46
				2011-12	2.12	0.85	4.24	7.21
				2012-13	2.40	0.67	4.80	7.87
				2013-14	2.40	0.38	4.80	7.58
112.	Thatayath Metal Crusher	32061327974	CTO, I Circle, Thodupuzha	2010-11	2.58	1.34	5.16	9.08
				2011-12	2.58	1.03	5.16	8.77
				2012-13	2.90	0.81	5.80	9.51
				2013-14	2.90	0.46	5.80	9.16

Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
113.	(*) Venad Granites	32061386608	CTO, I Circle, Thodupuzha	2009-10	4.29	3.22	8.59	16.10
				2010-11	3.99	2.51	7.98	14.48
				2011-12	3.99	2.03	7.98	14.00
				2012-13	4.50	1.76	9.00	15.26
				2013-14	4.50	1.22	9.00	14.72
114.	(*) Kunnumpurathu Granites	32061475967	CTO, II Circle, Thodupuzha	2012-13	2.90	1.13	5.80	9.83
				2013-14	2.90	0.78	5.80	9.48
115.	Hi Range Metal Products	32060802205	CTO, Nedumkandam	2009-10	2.63	1.68	5.26	9.57
				2010-11	2.42	1.26	4.84	8.52
				2011-12	1.41	0.56	2.82	4.79
				2012-13	1.60	0.45	3.20	5.25
				2013-14	2.40	0.38	4.80	7.58
116.	(*) Madaparambil Granites	32061380984	CTO, Special Circle, Thodupuzha	2013-14	9.00	2.43	18.00	29.43
117.	Thomson Granites	32061493754	CTO, Special Circle, Thodupuzha	2011-12	2.12	0.85	4.24	7.21
				2012-13	2.40	0.67	4.80	7.87
				2013-14	7.20	1.15	14.40	22.75
118.	St.Martin Granites	32061372603	CTO, Special Circle, Thodupuzha	2009-10	5.05	3.18	10.10	18.33
				2010-11	7.58	3.87	15.16	26.61
				2011-12	7.58	2.96	15.16	25.70
				2012-13	9.00	2.43	18.00	29.43
				2013-14	9.00	1.35	18.00	28.35
119.	(*) United Granites & Metals	32420500613	CTO, Special Circle, Thodupuzha	2012-13	9.00	3.51	18.00	30.51
				2013-14	9.00	2.43	18.00	29.43
120.	(*) Charles Metal Industry	32061449081	CTO, Special Circle, Thodupuzha	2010-11	28.38	17.88	56.76	103.02
				2011-12	26.97	13.75	53.93	94.65
				2012-13	31.80	12.40	63.60	107.80
				2013-14	31.80	8.59	63.60	103.99
121.	(*) CMJ Granites	32060658543	IAC, Idukki at Kattappana	2010-11	7.58	4.77	15.15	27.50
				2011-12	7.58	3.86	15.15	26.59
				2012-13	9.00	3.51	18.00	30.51
				2013-14	9.00	2.43	18.00	29.43
122.	Five Star Stone crusher and Hollow bricks	32121017482	CTO, Kooduparamba	2011-12	8.48	3.90	16.96	29.34

Sl. No	Name of the assessee	TIN	Name of the assessing office	Year	Tax	Interest	Penalty	Total
123.	MKN Bricks & Blue Metals(P) Ltd	32011028111	CTO, Nedumangad	2013-14	27.00	4.32	54.00	85.32
124.	Travancore Blue Metal Industries	32011094428	CTO, Nedumangad	2013-14	54.00	8.10	108.00	170.10
125.	Blue Star Industries	32011026164	CTO, Nedumangad	2009-10	3.33	2.13	6.66	12.12
				2010-11	3.03	1.58	6.06	10.67
126.	A.V. Crusher	32011082785	CTO, Nedumangad	2009-10	2.68	1.72	5.36	9.76
				2010-11	2.53	1.32	5.06	8.91
				2011-12	2.12	0.85	4.24	7.21
				2013-14	2.40	0.38	4.80	7.58
127.	Aramam Rocks	32011001605	CTO, Special Circle, Thiruvananthapuram	2009-10	4.54	2.77	9.08	16.39
				2010-11	3.94	1.93	7.88	13.75
128.	M.S. Building Products	32011183686	CTO, Special Circle, Thiruvananthapuram	2011-12	13.23	6.35	26.46	46.04
				2012-13	15.40	5.54	30.80	51.74
				2013-14	15.40	3.70	30.80	49.90
129.	Kannanthanam & Co	32010910424	CTO, Special Circle, Thiruvananthapuram	2009-10	18.18	11.09	36.36	65.63
				2010-11	16.97	8.32	33.94	59.23
130.	Mount Valley Granite	32050821925	CTO, Special Circle, Kottayam	2011-12	7.50	3.45	15.00	25.95
				2012-13	9.00	3.06	18.00	30.06
				2013-14	9.00	1.98	18.00	28.98
131.	Kuthiravelli Rubble Industries, Marangoli, Ktym	32051045002	CTO, Special Circle, Kottayam	2010-11	4.24	2.20	8.48	14.92
				<b>Total</b>	<b>2033.16</b>	<b>779.19</b>	<b>4066.3</b>	<b>6878.65</b>

(\*) Calculations modified after Joint Physical Verification of Metal Crushing Units.



**Appendix – XIII**

(Ref. Paragraph 2.6.2)

**Turnover escaped assessment**

(₹ in lakh)

Sl.No	Name of the Assessee	TIN	Name of the Assessing Office	Year	Turnover escaped assessment	Short levy of Tax	Interest	Tax Plus Interest	Penalty	Total
1	Best Granites	32081387545	CTO, Special Circle, Thrissur	2009-10	1679.40	212.02	133.58	345.60	424.04	769.64
2	Valakkavu Granites (P)Ltd	32080581808	CTO, Special Circle, Thrissur	2009-10	66.95	5.67	4.09	9.76	11.34	21.10
3	Thomson Granites	32080244523	CTO, Special Circle, Thrissur	2009-10 to 2013-14	620.98	82.49	36.70	119.19	164.98	284.17
4	Pawan Quarry & Aggregates Pvt Ltd	32151350507	CTO, II Circle, Perumbavoor	2010-11 & 2011-12	714.75	90.24	39.16	129.40	180.48	309.88
5	Devamatha Rock Products	32151215362	CTO, I Circle, Perumbavoor	2013-14	120.33	6.02	0.84	6.86	12.04	18.90
6	Parakkal Granites	32151515872	CTO, Kothamangalam	2012-13	91.36	12.33	3.45	15.78	24.66	40.44
<b>Total</b>					<b>408.77</b>	<b>217.82</b>	<b>626.59</b>	<b>817.54</b>	<b>1444.13</b>	